



NOTICE OF MEETING
Cochise County, Planning and Zoning Commission

February 8, 2012 at 4:00

Cochise County Complex
Board of Supervisors, Hearing Room
1415 W. Melody Lane, Building G
Bisbee, Arizona 85603

AGENDA

1. 4:00 P.M. - CALL TO ORDER

**THE ORDER OR DELETION OF ANY ITEM ON THIS AGENDA IS SUBJECT TO
MODIFICATION AT THE MEETING**

2. ROLL CALL (Introduce Commission members, explain quorum and requirements
for taking legal action.)

3. CALL TO THE PUBLIC (Opportunity for members of the public to speak on any item
not already on the agenda).

4. APPROVAL OF PREVIOUS MONTH'S MINUTES

5. NEW BUSINESS

Item 1 – (Page 1) Introduce docket and advise public who the applicants are.

PUBLIC HEARING, DOCKET SU-08-10A (Walnut Gulch) – This item was a request to
modify an approved Special Use Permit for a private airstrip. The Applicant had asked
to have the modification request tabled until a time certain (February 8, 2012). In
January, the Applicant informed staff of his intent to withdraw the request. As this item
was scheduled for Commission action at the February 8, 2012 meeting, staff
recommends the Commission remove the item from the table and allow the application
to be withdrawn.

Item 2 – (Page 2) Introduce docket and advise public who the applicants are.

DOCKET S-11-01 (King’s Ranch at Coronado Waiver Request) - This is a request from K Ranch, LLC, the Owner of the Kings Ranch at Coronado Subdivision, for a Waiver from Section 603.03 of the Subdivision Regulations.

ANNOUNCE ACTION TAKEN (If the Commission makes a recommendation, the docket will be heard at a future Board of Supervisors meeting at the same location as the Commission meeting).

Item 3 – (Page 3) Introduce docket and advise public who the applicants are.

PUBLIC HEARING, DOCKET R-11-08 (Bylaws and Ordinance): The Commission will continue to review, update, and suggest revisions to the Bylaws and Rules of Procedures for County Planning and Zoning Commission, Cochise County, Arizona. The Commission will also review and may possibly make recommendations to the Board of Supervisors to update the County Planning Commission Ordinance, dated November 20, 1969.

ANNOUNCE ACTION TAKEN (If the Commission makes a recommendation, the docket will be heard at a future Board of Supervisors meeting at the same location as the Commission meeting).

6. PLANNING DIRECTOR'S REPORT, INCLUDING PENDING, RECENT AND FUTURE AGENDA ITEMS

7. PENDING AND RECENT MATTERS

- A) FUTURE AGENDA ITEMS/DOCKETS
- B) BOARD OF SUPERVISORS' ACTIONS

8. CALL TO COMMISSIONERS ON RECENT MATTERS

9. ADJOURNMENT

Pursuant to the Americans with Disabilities Act (ADA), Cochise County does not, by reason of a disability, exclude from participation in or deny benefits or services, programs or activities or discriminate against any qualified person with a disability. Inquiries regarding compliance with ADA provisions, accessibility or accommodations can be directed to Chris Mullinax, Safety/Loss Control Analyst at (520) 432-9720, FAX (520) 432-9716, TDD (520) 432-8360, 1415 Melody Lane, Building F, Bisbee, Arizona 85603.



COCHISE COUNTY PLANNING & ZONING COMMISSION
DRAFT MINUTES
January 11, 2012

The regular meeting of the Cochise County Planning & Zoning Commission was called to order at 4:00 p.m. by Chair Lynch at the Cochise County Complex, 1415 Melody Lane Building G, Bisbee, Arizona in the Board of Supervisors Board Room.

ROLL CALL

Chair Lynch noted the presence of a quorum. He instructed the Commissioners to identify themselves and their respective Districts.

1. **Present:** Mr. Martzke, Mr. Chair Lynch, Mr. Bemis, Ms. Edie, Mr. Montañó
2. **Absent/Excused:** Mr. Abrams, Mr. Brauchla

APPROVAL OF PREVIOUS MONTH'S MINUTES

Mr. Martzke moved to approve the minutes as written. Mr. Bemis seconded the motion and it passed unanimously. Mr. Martzke, Chair Lynch, Mr. Bemis and Ms. Edie voted to approve the minutes. Mr. Montañó abstained.

Motion: Approve the minutes of the December 14, 2011 meeting.

Action: Approve **Moved by:** Mr. Martzke, **Seconded by:** Mr. Bemis

Vote: Motion passed (**Summary:** Yes = 4, No = 0, Abstain = 1)

Yes: Mr. Martzke, Chair, Mr. Bemis, Ms. Edie

No: 0

Abstain: Mr. Montañó

CALL TO THE PUBLIC

Chair Lynch opened the "Call to the Public"

Jack Cooke spoke about various matters.

Chair Lynch closed the "Call to the Public"

NEW BUSINESS

Election of Chairman and Vice-Chairman for 2012

Chair Lynch began the annual election for Officers by opening nominations for Chair.

Mr. Bemis nominated Chair Lynch for Chair, Ms. Edie seconded the nomination. There being no other nominations, Mr. Martzke moved to close the nominations. Mr. Bemis seconded. The vote was called and was unanimous. Mr. Martzke, Chair Lynch, Mr. Bemis, Ms. Edie, and Mr. Montaña voted to approve closing the 2012 nominations for Chair.

Motion: Motioned to close the 2012 nominations for Chair of the Planning & Zoning Commission.

Action: Approve **Moved by:** Mr. Bemis, **Seconded by:** Ms. Edie

Vote: Motion passed unanimously (**Summary:** Yes = 5, No = 0, Abstain = 0)

Yes: Mr. Martzke, Chair Lynch, Mr. Bemis, Ms. Edie, Mr. Montaña

No: 0

Abstain: 0

Nominations were opened for Vice Chair. Mr. Bemis nominated Mr. Martzke for Vice Chair, Chair Lynch seconded the nomination. There being no other nominations, Ms. Edie moved to close the nominations. Mr. Montaña seconded. The vote was called and was unanimous. Mr. Martzke, Chair Lynch, Mr. Bemis, Ms. Edie, and Mr. Montaña voted to close the 2012 nominations for Vice Chair.

Motion: Motion to close the 2012 nominations for Vice Chair of the Planning & Zoning Commission.

Action: Approve **Moved by:** Ms. Edie, **Seconded by:** Mr. Montaña

Vote: Motion passed unanimously (**Summary:** Yes = 5, No = 0, Abstain = 0)

Yes: Mr. Martzke, Chair Lynch, Mr. Bemis, Ms. Edie, Mr. Montaña

No: 0

Abstain: 0

Chair Lynch proposed to vote on the nominated slate since there are only two nominees, one for each position. Chair Lynch made the motion to approve the slate as nominated. The vote was called and was unanimous.

Motion: Approve the slate as nominated, Mr. Lynch as Chair and Mr. Martzke as Vice Chair.

Action: Approve **Moved by:** Chair Lynch

Vote: Motion passed unanimously (**Summary:** Yes = 5, No = 0, Abstain = 0)

Yes: Mr. Martzke, Chair Lynch, Mr. Bemis, Ms. Edie, Mr. Montaña

No: 0

Abstain: 0

Chair Lynch closed the 2012 Planning and Zoning elections.

PUBLIC HEARING, DOCKET SU-11-15 (Turquoise Valley): Senior Planner Keith Dennis presented this request for a special use permit to legitimize an existing utility pole with attached WI-FI equipment to facilitate wireless internet service for the Turquoise Valley Golf Course and RV Park. He explained that the pole was installed without a permit, which created a zoning violation that the Applicant wants to correct with this request. Mr. Dennis showed the Commission pictures of the pole and its location. He then presented modifications needed for this wireless communications tower to meet minimum site development standards. They included a waiver from the required minimum setback, which is equal to the height of the tower; the Applicant requested a zero-foot setback. Mr. Dennis stated the light on the pole is only used for special circumstances, such as occasional night events and for maintenance purposes. The Applicant also requested a waiver of the screening requirement. Mr. Dennis indicated that Staff supports all requested modifications. Mr.

Dennis presented the factors in favor of approval including conformity with the Naco Community Plan and the General Business District purpose statements. Mr. Dennis noted that the request complies with six of the Special Use factors, with the conditions and modifications as recommended by Staff. The Turquoise Valley Golf Course’s position as a pillar of the economy for the area, and the suggestion that the wireless communications tower will add value to the business and customers, was cited by Mr. Dennis as the second factor in favor of approval. He stated that the single factor against approval is that the tower was constructed without a permit and is in violation of the Zoning Regulations. Mr. Dennis completed his presentation and asked if the Commission had any questions.

Mr. Bemis asked if the pole fell would there be damage to any of the buildings in the vicinity. Mr. Dennis said it would not damage any buildings, but possibly a car. He also stated that the old San Pedro Railroad right-of-way was on the south side of this tower and it was wider than 65’.

Chair Lynch asked when the pole was placed. Mr. Dennis stated that it was installed in the fall of 2011,

Chair Lynch asked the Applicant to speak.

Mr. Milt Jensen from TransWorld Network Corporation spoke on behalf of Turquoise Valley Golf Course. He stated that he had researched the project before installing it, and they did not find any requirements for the pole.

Chair Lynch opened the meeting to the public. There being no one who wished to speak, he closed the public hearing.

Chair Lynch opened this item for Commission discussion. There being no comments, he closed the discussion.

Chair Lynch asked for Staff’s recommendation. Mr. Dennis recommended conditional approval, and stated that all conditions are standard conditions that apply to all Special Uses. He also reminded the Commission of the requested modifications.

Mr. Martzke motioned to approve the docket with the conditions indicated by Staff. Ms. Edie seconded the motion. The motion passed unanimously.

Motion: Approve with conditions

Action: Approve **Moved by:** Mr. Martzke **Seconded by:** Ms. Edie

Vote: Motion passed unanimously (**Summary:** Yes = 5, No = 0, Abstain = 0)

Yes: 5

No: 0

Abstain: 0

PUBLIC HEARING, DOCKET Z-11-02 (Zerkle): As the Applicant was not present in the audience, Staff recommended the docket be postponed to a later position on the agenda. Chair Lynch agreed.

PUBLIC HEARING, DOCKET SU-11-13 (Rainbow Solar Energy): Interim Planning Manager Beverly Wilson informed the Commission that the Applicant (Josh Fields of Rainbow Solar Energy, LLC) was on the telephone from Santa Monica, California, and confirmed that he could be heard by all present. She then presented this Application for a Special Use Permit to construct a solar power plant west of Douglas, just northeast of the Cochise College Campus. She stated the Applicant has an option to purchase a 320.79 acre portion of a larger parcel, for this use. The Applicant plans to improve the access road from North Central Highway to the site with gravel, as required by the Zoning Regulations. Ms. Wilson showed a simplified version of how the photovoltaic solar system would function. She said there were two letters of support received for the Special Use from Rainbows End Ranch and Cochise Community College. One letter of

protest was received from the only adjoining neighbor, Ms. Carol Riggs. Ms. Wilson stated the Applicant did communicate with the opposing neighbor, and has offered another 50’ setback adjacent to her property line.

Ms. Wilson indicated Staff recommended site development standards modifications which included waiving the required maximum site coverage of 25%, as the majority of the site will be covered with solar panels, and waiving the requirement for defined parking and a definable driveway entry and exit because the Applicant stated they will apply gravel to all surfaces. Ms. Wilson presented seven factors in favor of approving this Special Use Permit. Ms. Wilson stated that the two factors against approval included the lack of Interconnect or Power Purchase Agreements at this time, and that one letter of protest was received at the time the Staff memo was distributed. She completed her presentation and asked if there were any questions.

Chair Lynch asked about the second letter of protest given to the Commission. Ms. Wilson stated it had been delivered just prior to the meeting.

Mr. Bemis asked about the hookup with APS, and why the Applicant applied for Special Use authorization in advance of the permit issuance from the State. Ms. Wilson deferred the question to the Applicant.

Chair Lynch asked for the Applicant’s statement.

Mr. Josh Fields, representing Rainbow Solar Energy via telephone, introduced Mr. David Bohn from Kinetix and presented an overview of the parent company, SolarReserve, and the nature of the Special Use request. Mr. Fields stated this project is viable, and cost effective. He said Interconnect and Power Purchase agreements with Arizona Public Service (APS) will be signed later this year after completing the final study. David Bohn of Kinetix then gave a presentation on this specific project. He explained the benefits of the solar project which include reduced fossil fuel use and emissions; little water usage; and the jobs and tax revenue which would be generated. Mr. Bohn also stated that it would not visually impair viewsheds or compromise dark night skies.

Chair Lynch then opened the meeting to the Public, and asked for comment in favor of this Special Use project.

Ms. Smith stated from the audience she supported the project.

Mr. Kevin Butler, Vice President of Administration of Cochise College, spoke on behalf of the project. Mr. Butler stated Cochise College believes the project will benefit the College’s future curriculum and training curriculum to place individuals in renewable energy jobs. He said there were concerns for the pilot training program as the solar project location is diagonal from the airport runway. He asked the developers to work with the College in resolving these issues. Mr. Butler stated aviation and PV can coexist. He said after discussing the project with instructors and directors, the College is confident the facility can be developed without creating safety concerns for the College and its flight program.

Chair Lynch then opened the meeting for public comment against the project.

Ms. Madeline Carol Riggs, the neighbor adjacent to the east side of the project spoke against the project. Ms. Riggs asked Mr. Fields if there will be any Federal funding or tax credits. Mr. Fields commented yes. She asked him if there will there be a NEPA report on the environmental study. Mr. Fields commented it will not be done since it is not needed. Ms. Riggs commented she believed it is required and asked if Mr. Fields would keep her on the mailing list for this report. Ms. Riggs stated her water flow will be affected by what has been proposed and it will also flood the other neighbor. Ms. Riggs asked Staff about other solar plants. Staff responded no other permits have been issued. Ms. Riggs stated the County Assessor told her that her property value would be diminished eventually after this power plant was built. Ms. Riggs said the land is also not flat from her viewpoint and the wildlife in this area may be affected.

Mr. Noble spoke against this Special Use docket. He presented large diagrams which he used to demonstrate that the water flow will be altered by the drainage and grading plan, as provided. He asserted that the detention basin will not be sufficient to contain the water and it will subsequently flood his property.

Chair Lynch offered Mr. Bohn the opportunity to rebut. Mr. Bohn addressed Ms. Riggs' and Mr. Noble's concerns about water flows. He stated that the intent of the design is to retain all drainage generated from the new construction on site, while historical flows will be allowed to continue. Mr. Bohn addressed Ms. Riggs' concern with the location of the new solar plant to her property, and discussed adjusting the site plan so she can have more space. Mr. Bohn stated that when dealing with endangered species, the protocol and surveys required by the State to meet the environmental standards will be met.

Chair Lynch asked Mr. Bohn if the 320 acres will be graded. Mr. Bohn said there is no intent to grade the entire site. Chair Lynch asked Mr. Bohn about the drainage plan. Mr. Bohn said pre-analysis was done on existing conditions and flow. Post-analysis was completed to determine the volume of storm water historically generated from a solar plant; the difference from post-construction minus the volume of pre-construction is the volume of stormwater for which adequate detention must be provided.

Chair Lynch asked Staff about the drainage concerns raised. Carlos De La Torre, Director of Community Development, stated that the docket is a land use issue but in terms of flood control, the requirements condition the Applicant to meter the water, and retention and discharge must be based on historical flow by State statute. He stated the review of the Applicant's plan for drainage and hydrology is done during the commercial permitting processing.

Mr. Martzke questioned the Applicant on relocation of water with drainpipes on each solar panel to redistribute it somewhere else on the site.

Mr. Bohn responded that would be a question for the solar panel designers.

Mr. Bemis asked the Applicant if the road shown on the design was berms. Mr. Bohn answered no. Mr. Bohn stated the design was a schematic, and that the analysis hasn't been completed. However, accommodations for Ms. Riggs can be made for the historical flow onto her property. Mr. Bohn reiterated they will maintain the historical flow.

Chair Lynch closed the public hearing and asked for the Director's recommendations.

Ms. Wilson then presented Staff's recommendation for conditional approval. The first condition of approval is the standard condition for a Special Use, with the exception that the Applicant is allowed to apply for a building use permit within one year of approval; typically a shorter time is required. This will allow the Applicant adequate time to complete the application process with Arizona Public Service. The second condition requires completion of a joint permit application which must include a revised site plan conforming to all site development standards, including meeting all requirements including any State and Federal requirements. Ms. Wilson said the third condition requires any proposed changes to the approved Special Use, particularly in the type of solar energy power plant technology used, will require review by the Planning Department, and may require another public hearing with the Commission. The final condition requires the Applicant to obtain a legal means of access prior to permit issuance.

Mr. Martzke asked if a condition can be placed requiring adjoining property owners' approval of the Floodplain report. Mr. De La Torre stated that the County has substantial Flood regulations and State regulations which address those concerns. He said the County understands the concerns of the public.

Mr. Martzke asked if there is sufficient Staff to adequately review the drainage and grading plans. Mr. De La Torre replied yes.

Mr. Bemis asked about Ms. Riggs’ statement that property values would be reduced. Chair Lynch commented that technical issues are addressed with additional permitting processes. Mr. Lynch said assessing the value of property at this time is difficult.

Mr. Noble requested notification on Floodplain changes during the permitting process.

Ms. Smith said she would like to donate land to the Applicant for this use within the same area.

Ms. Edie stated that she doesn’t believe that people can control nature.

Mr. Martzke made a motion to recommend approval with conditions. Mr. Bemis seconded. Chair Lynch asked for discussion amongst the Commissioners.

Mr. Bemis stated that he is opposed. His trepidation is due to a lack of communication between land owners, and he would have liked better engineering before it was presented to the Commission. He stated his concern about property values which the Cochise County Assessor, Mr. Leiendecker, has acknowledged. He asked if projects brought before the Commission could contain better detailed plans and engineering on water flow.

Ms. Wilson stated Mr. Leiendecker said the value of the property may drop, depending on what kind of development it is, not that the value of the property would assuredly drop with this project.

Mr. Martzke commented on the overall sentiment expressed over the years that property values are reduced because of development. He indicated that long-term values do not seem to be affected as far as he was aware after his many years of experience on the Commission.

Ms. Edie said that the solar projects she was aware of graded the land to accommodate solar panels.

Chair Lynch stated the Commission’s role is to look at land use in the context of social impacts. Chair Lynch said there are organizations in place to deal with water flow, hydrology, and flood plain, and that this project has not worked through these review processes yet.

Chair Lynch called for the vote, Mr. Martzke, Chair Lynch and Mr. Montaña were in favor, Ms. Edie and Mr. Bemis were opposed. The motion to approve passed.

Motion: Approve with conditions and modifications

Action: Approve **Moved by:** Mr. Martzke **Seconded by:** Mr. Bemis

Vote: Motion passed (**Summary:** Yes = 3, No = 2, Abstain = 0)

Yes: 3

No: 2

Abstain: 0

PUBLIC HEARING, DOCKET SU-11-14 (Enriquez): Mr. Dennis presented the request to upgrade an existing Residential Care Home to a Residential Care Institution. Mr. Dennis said that the current Zoning Regulations requires, with the addition of a seventh resident, a Special Use Permit for a Residential Care Institution. Mr. Dennis said there is no new proposed construction; however, if the Special Use Permit is approved, nonresidential site development standards will apply. Mr. Dennis commented on site plan requirements, parking requirements and a commercial apron attaching the driveway to Golf Links Road, a County-maintained road.

Mr. Dennis also presented modifications to site development standards as requested by the Applicant for landscaping, screening, driveway standards and width. Mr. Dennis also presented the requested modification for parking.

Mr. Dennis said Staff supports the modifications as requested, and presented the factors in favor of approval, which included additional capacity for elderly residents, the residential and low-impact nature of the use, and the two letters of support received for the project. One neighbor expressed opposition; this was the lone factor against approval. Mr. Dennis concluded his presentation and asked if the Commission had any questions.

Ms. Edie asked why County Regulations on occupancy differs from State Regulations. Mr. Dennis said the County mirrored the land use threshold to Building Code requirements, as opposed to State requirements.

Chair Lynch asked for the Applicant’s statement - Ms. Smith spoke for Rosa Enriquez, the Applicant, and requested the Commissioners approve this Docket. Ms. Smith said there is a lack of residential care homes in Douglas, and adding one additional space would allow this residential care home to be a more viable business so she could continue living there.

Chair Lynch opened the public hearing. There being no one who wished to speak, he closed the public hearing.

Chair Lynch asked the Commission for discussion, there being none, he asked for Staff’s recommendation.

Mr. Dennis recommended conditional approval and presented the conditions, including requiring the Applicant to provide an updated site plan, and applying for and obtaining an approved permit within 18 months. In addition, the Applicant will be required to provide a commercial apron and obtain a right-of-way permit. Staff supports the modification requests as proposed.

Mr. Martzke motioned to approve the request with conditions and modifications as requested by the Applicant. Ms. Edie seconded the motion. The motion passed unanimously.

Motion: Approve with conditions
Action: Approve **Moved by:** Mr. Martzke **Seconded by:** Ms. Edie
Vote: Motion passed unanimously (**Summary:** Yes = 5, No = 0, Abstain = 0)
Yes: 5
No: 0
Abstain: 0

PUBLIC HEARING, DOCKET Z-11-02 (Zerkle): Mr. Dennis began by asking if the Applicant was in the audience. No one responded, so he began his presentation. This application was submitted as the result of a violation because a home was built without a permit. The Applicant does not want building code inspections, but could not qualify for the County Owner-Builder Amendment as his parcels are zoned TR-36. Mr. Zerkle has two of the seven parcels, and additional family members joined this request for down-zoning. Mr. Dennis said the parcels are in a rural area of the County. He explained that the two letters of support that were received represent 55 neighboring parcels. He explained that the request complies with seven of the eight applicable zoning evaluation factors, and indicated that two letters of support were received. Mr. Dennis indicated that the factors against approval included the current violation of construction without a permit, and the Applicant’s desire to opt-out of building inspections. Mr. Dennis said if the Commission votes to send a recommendation of approval to the Board of Supervisors, it will be a consent item on their January 24, 2012 agenda.

Mr. Martzke commented on the history of Planning & Zoning and how lots in decade-old subdivisions were zoned.

Chair Lynch opened and closed the public hearing, as there were no speakers.

Mr. Dennis said Staff recommends conditional approval, and that the Applicant is responsible for any other licenses or permits.

Mr. Martzke moved to forward the docket to the Board of Supervisors with a recommendation of conditional approval. Mr. Bemis seconded. The motion passed unanimously.

Motion: Recommend conditional approval to the Board.

Action: Approve **Moved by** Mr. Martzke **Seconded by** Mr. Bemis

Vote: Motion passed (**Summary:** Yes = 5, No = 0, Abstain = 0)

Yes: 5

No: 0

Abstain: 0

PUBLIC HEARING, DOCKET R-11-09 (Legal Non-Conformance): Interim Planning Director Michael Turisk presented the proposed amendments for legal non-conforming uses which include land use, lots, parcels or structures which lawfully existed prior to July 1, 1975. Mr. Turisk said Staff is proposing two amendments to Article 20 to make it easier for property owners to demonstrate or provide Staff with evidence of a pre-existing use. The first is that evidence must be submitted that the use existed at least ten years prior to the date of the determination of nonconforming use, and second, extending the time of discontinuance of use from 12 months to 36 months.

There were no questions from the Commission.

Chair Lynch opened the Public Hearing.

Mr. Cooke commented on the historical aspects of the time period before January 1, 1975.

Chair Lynch closed the public hearing.

Mr. Turisk stated that Staff recommends the Planning and Zoning Commission forward the docket to the Board of Supervisors with a recommendation of approval. All of the proposed Regulation changes approved by the Commission will be heard on February 14, 2012 by the Board of Supervisors.

Mr. Bemis made the motion to forward Docket R-11-09 with a recommendation of approval to the Board of Supervisors. Mr. Martzke seconded the motion. The motion passed unanimously with Mr. Martzke, Chair Lynch, Mr. Bemis, Ms. Edie and Mr. Montañó voting for approval.

Motion: Forward a recommendation of approval to the Board of Supervisors.

Action: Approve **Moved by** Mr. Bemis **Seconded by** Mr. Martzke

Vote: Motion passed (**Summary:** Yes = 5, No = 0, Abstain = 0)

Yes: 5 **No:** 0

Abstain: 0

PUBLIC HEARING, DOCKET R-11-08 (Bylaws and Ordinance): The Commission continues to review, update, and suggest revisions to the Bylaws and Rules of Procedures for County Planning and Zoning Commission, Cochise County, Arizona. The Commission will also review and may possibly make recommendations to the Board of Supervisors to update the County Planning Commission Ordinance, dated November 20, 1969.

Chair Lynch requested that the Commissioners submit final comments to him on changes to the proposed language of the Bylaws and Ordinances. He requested that Staff put together a clean copy for the next meeting. Mr. Martzke suggested removing terms of less than two or three years, since all are now appointed for four-year terms, and changing the words “first meeting” on page 119 of Packet to “first meeting of the year”. Mr. Martzke pointed out several sections that should be rewritten. Chair Lynch indicated that those sections were rewritten.

Chair Lynch closed the discussion and directed Staff to prepare a clean copy for discussion in February.

PLANNING DIRECTOR'S REPORT, INCLUDING PENDING, RECENT AND FUTURE AGENDA ITEMS

Mr. Turisk reported that the Board of Supervisors approved a three-year extension of the Copper Sky rezoning and Master Development Plan. Mr. Turisk also stated the Dockets for February’s meeting will be a rezoning, removal of the tabled Walnut Gulch airstrip, a recommendation to the Commission for a requested waiver for the King’s Ranch at Coronado subdivision plat, and a possible amendment to the Zoning Regulations. He stated that a possible work session may be held with Mark Apel from the University of Arizona’s Cooperative Extension regarding their Renewable Energy Opportunity Analysis for solar facilities.

CALL TO COMMISSIONERS ON RECENT MATTERS

Mr. Martzke motioned to adjourn the meeting. Mr. Bemis seconded the motion. The motion passed unanimously. Mr. Martzke, Chair Lynch, Mr. Bemis, Ms. Edie and Mr. Montañó all voted to adjourn.



ADJOURNMENT -- 6:36p.m.

Pursuant to the Americans with Disabilities Act (ADA), Cochise County does not, by reason of a disability, exclude from participation in or deny benefits or services, programs or activities or discriminate against any qualified person with a disability. Inquiries regarding compliance with ADA provisions, accessibility or accommodations can be directed to Chris Mullinax, Safety/Loss Control Analyst at (520) 432-9720, FAX (520) 432-9716, TDD (520) 432-8360, 1415 Melody Lane, Building F, Bisbee, Arizona 85603.

Planning & Zoning Commission Meeting Sign in Sheet

DATE 01-11-2012

PLEASE PRINT

NAME	ADDRESS	PHONE #	ITEM #
1. Carol Riggs	4466 N. Brooks	805-1962	SU-11-13
2. Dick Noble	3970 Gazelle Rd	503 437-0575	# SU1113
3. Mitt Jensen	208 Richmond Ave	965-2301	SU-11-15
4. Joe Campbell	Bisbee AZ	520-432-3091	SO-11-15
5. RICHARD CHRISTIANSEN	DOUGLAS 5208 N. Brooks Rd	520-364-4038	SU-11-13
6. Jack Cook	112 night hawk Ave		
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COMMUNITY DEVELOPMENT DEPARTMENT

Planning, Zoning and Building Safety

1415 Melody Lane, Bisbee, Arizona 85603

(520) 432-9240


Fax 432-9278

Carlos De La Torre, P.E., Director

MEMORANDUM

TO: Cochise County Planning and Zoning Commission

FROM: Keith Dennis, Senior Planner 

For: Michael Turisk, Interim Planning Director 

SUBJECT: Docket SU-08-10A (Walnut Gulch Holdings, LLC)

DATE: January 30, 2012, for the February 8, 2012 Meeting

WITHDRAWAL BY APPLICANT

The Applicant, Walnut Gulch Holdings, LLC, has withdrawn their request for a Special Use Modification to Docket SU-08-10.

This item was scheduled to be heard at the November 2011 meeting, but prior to the hearing the Applicant asked the Commission to table the Docket until the February 8, 2012 meeting.

The reason for the request to table the Docket was that, during the comment and analysis phases of the request, Fort Huachuca, Libby Army Airfield, and the Federal Aviation Administration all expressed concern about the resulting increase in air traffic through restricted, heavily-trafficked airspace. The Applicant met with Fort Huachuca staff in December 2011 to attempt to reach a compromise.

After meeting with Fort Huachuca staff, the Applicant informed staff of their intention to withdraw their request. Staff supports the withdrawal request.



COMMUNITY DEVELOPMENT DEPARTMENT

Planning, Zoning and Building Safety

1415 Melody Lane, Bisbee, Arizona 85603

(520) 432-9240

Fax 432-9278

Carlos A. De La Torre, P.E., Director

MEMORANDUM

TO: Planning and Zoning Commission

FROM: Beverly Wilson, Interim Planning Manager *BW*

FOR: Michael Turisk, Interim Planning Director *MT*

SUBJECT: Kings Ranch at Coronado Request for Waiver
Docket S-11-01 (Kings Ranch at Coronado)

DATE: January 30, 2012 for the February 8, 2012 Meeting

I. NATURE OF THE REQUEST

This is a request from the Owners of the Kings Ranch at Coronado Subdivision, formerly known as Kinjockity Ranch. They are requesting a waiver from the density bonus allowed for development under the Residential Conservation Subdivision Option of the Cochise County Subdivision Regulations. The Subdivision Regulations allow waivers from the Regulations in unique situations. Section 207 reads as follows:

“The Board of Supervisors may approve, disapprove, or conditionally approve waivers to the terms of these regulations so long as they are not contrary to the public interest, and where due to unique conditions, a literal enforcement of the provisions and requirements of the Subdivision Regulations would result in undue hardship.

This waiver is being presented to the Planning and Zoning Commission, per Section 207 of the Subdivision Regulations which states in item B:

“The Commission shall provide a recommendation to the Board of Supervisors on all waivers.”

The Amended Final Plat is scheduled to be presented to the Board of Supervisors for their approval, at the February 14, 2012 meeting.

The Residential Conservation option for subdividing land is found in Article 6 of the Subdivision Regulations. Section 603.02 defines the specific conditions in which density bonuses are granted to Developers who can meet the following conditions: 50% of the site must be set aside as a Conservation area; the proposed subdivision must comply with the design and improvement requirements of the Subdivision Regulations; and the individual lots must conform to requirements for sewage disposal, water distribution systems, and fire protection as described in the subdivision regulations. The regulations allow a density bonus of 34% to 50%, depending upon the level of improvements offered by the Developer.

The proposed Kings Ranch at Coronado Amended Plat will meet the condition to set aside 50% of the site as Conservation Area. There are 840.26 platted acres, of which 429.94 acres are included in the Conservation Area. This equals 51.17% of the total subdivision being set aside, which fulfills the requirement to qualify for a density bonus. This land will continue to be held as a Conservation Easement by the Arizona Conservation Easement Stewards, Inc., as described in attachment A.

While the history of this Subdivision follows, the current economic conditions resulted in a change of ownership through a foreclosure action during late 2010 and early 2011. K Ranch, LLC is the new Owner of the property and has been working with the Department to amend the Final Plat and to replace the Assurance Agreement to reflect this change in ownership. The Owner has presented several options for the ongoing development of this parcel, due to the current economic conditions. They have proposed a new business plan for this project to include changing the streets from private to public, removing the planned gates for the community, and creating a denser development. Discussion included the potential for Cochise County to establish a stormwater recharge system within this development.

Those discussions have led to a proposed amended plat which will dedicate 4.14 acres to Cochise County for this recharge effort. An additional 3.6 acres will be recorded on the plat as a 30' wide easement along the entire east boundary of the parcel for a total of 7.74 acres. The Owner has also agreed to allow the County to use three additional lots in the design (a total of approximately 3.13 acres) for potential recharge sites. County Staff is recommending that in exchange, a waiver be granted to allow an additional 22 lots on this plat, which includes the 3 lots that will be set aside for future recharge use by Cochise County. Allowing 19 additional lots would equate to a density bonus of 42%, a net increase of 8% above the 34% allowed under the Subdivision Regulations, while increasing the open space requirement to 51.17%.

Per the Subdivision regulations, lot sizes in a conservation subdivision may be smaller than otherwise allowed in a given Zoning District, provided all the previously-mentioned requirements are met. If this parcel was platted under the Conventional subdivision rules, each lot would remain at a minimum 4.0 acres, and the maximum number of lots would depend upon how many acres are used for the roads, public utility easements, and sidewalks, if required. The lot sizes of the current recorded plat for Kings Ranch Estates vary from 0.86 to 6.74 acres, which will not change in the proposed amended plat. It is important to note that the all of the 19 newly created lots will be a minimum of 1.0 acre to a maximum of 2.97 acres.

II. HISTORY OF THE PROJECT

As state previously, the Kings Ranch Subdivision site consists of 840.72 acres and is located on the northeast side of Highway 92, north and west of the Valley View School in Palominas. In 2006, this subdivision was the first Conservation Subdivision filed in Cochise County. The developer used the Conservation Subdivision option to set aside 426.13 acres (50.69%) of open space. The parcel is zoned RU-4 and is currently platted with 281 lots ranging in size from 0.86-acres to over 6.5 acres. The subdivision was planned to be gated with private roads to be maintained by a Homeowners Association. A third party (ACES) was given the Conservation easement and it was recorded as Fee #060519938. This easement is meant to protect the scenic enjoyment and relatively natural habitat of wildlife and plants on the site. This open space is an

important wildlife corridor which connects the Huachuca Mountain Range to the San Pedro River Basin. Additionally, the topography of this site is ideal for stormwater recharge.

The former Kinjockity Ranch subdivision Final Plat was approved by the Board of Supervisors on May 11, 2006 and recorded on May 24, 2006 in Book 15 of Plats, Pages 57 – 57Q. On May 3, 2007, a revised Final Plat was recorded in Book 15 of Plats, Pages 76 – 76K; with a second revised Final Plat recorded on May 29, 2007 and recorded in Book 15 of Plats, pages 78 – 78K. On March 17, 2008, a Substitute Assurance Agreement was filed reflecting the purchase of Kinjockity Ranch by the Kinjockity Ranch Limited Liability Corporation, represented by Kenneth Komenda.

On December 11, 2009, a third revised Final Plat was recorded in Book 16 of Plats, pages 6-6K. This revised plat formally changed the name of the subdivision to Kings Ranch Estates and also reconfigured and corrected various lots, roadways, conservation areas, easements, and tracts.

The improvements specified by the Assurances were completed for 97 of the lots, which were released by Cochise County on June 5, 2007. These improvements included installation of the private roads, underground utilities, and substantial off-site mitigation to South Highway 92 including turn lanes and deceleration lanes at both entrances.

On June 29, 2010, a notice of foreclosure was recorded and the property sold on September 30, 2010 to K Ranch, LLC. An amended subdivision final plat was submitted on January 20, 2012, changing the name to *Kings Ranch at Coronado*.

The revised plan reflects the construction of proposed stormwater recharge easements and additional lots dedicated to Cochise County.

Recently, the Cochise County Community Development Department was awarded a \$1,693,265.00 grant to design, construct and monitor the performance of a stormwater recharge system. The grant will be used to develop a pilot recharge project in the unincorporated County area in the Upper San Pedro watershed in an effort to capture and recharge excess storm water runoff. Development, even at a rural scale, creates increased runoff due to increased impervious surfaces: roofs, roads, and cleared areas. This project will analyze and design facilities meant to capture this excess runoff (which creates flooding problems downstream) and recharge it for the benefit of the aquifer and/or the San Pedro River. The County identified an area in Palominas that was close to the San Pedro River, already suffering from flooding problems, and included a newly developing area in the upper watershed. These factors made the area a good candidate for the location of the pilot project. K Ranch, LLC, the current owner of the Kings Ranch Estates Subdivision, is that developing area in the upper watershed. They have worked closely with County staff to cooperate in the grant project and to identify potential stormwater recharge sites on the subdivision property. This partnership is crucial to the success of the grant and the new owners have been very cooperative and enthusiastic about participating and assisting County with this project.

In addition, this amended plat also proposes to remove the gates of the community and dedicate the roadways to the public. The Cochise County Highway Department is working with the Applicant's Engineers to accept the existing roadways into the County highway system. The future roads will be built under County supervision, as with any subdivision in Cochise County

that intends to dedicate roadways to the public. The historic ranch building will be maintained while all other lots are designated for single family homes.

III. SUMMARY AND RECOMMENDED MOTION

K Ranch, LLC, is offering a unique opportunity at the Kings Ranch at Coronado Subdivision for Cochise County with this Pilot project of storm water recharge. The issues surrounding the San Pedro River Basin and Fort Huachuca, the County's largest economic generator are well documented. The Walton Foundation, through this grant, has enabled the County to become an active participant in the vital efforts of the greater community to promote groundwater preservation through this stormwater recharge effort. Section 207 of the Subdivision Regulations allows the Commission to approve a waiver to the Regulations provided that such is "not contrary to the Public interest." In this case, Staff's position is that, far from being contrary, the Public interest would be well-served, even with the 19 additional lots, if the Commission allows the variance as requested.

Staff recommends that the Commission forward to the Board of Supervisors a recommendation of approval for this waiver request to allow a larger density bonus for the Kings Ranch at Coronado Subdivision with a net change of 19 additional lots, no new lot to be smaller than 1.0 acre in size.

Sample Motion: *"Mr. Chairman, I recommend approval of a Variance to the Cochise County Subdivision Regulations Density Bonus requirements to allow a 42% density bonus for the Kings Ranch at Coronado Subdivision, as recommended by Staff, with the factors in favor of approval constituting findings of fact."*

IV. ATTACHMENTS:

- A. Conservation Easement and Management Plan
- B. Proposed Amended Plat
- C. Letter of Support from ACES, dated 1.30.12

COPY

When recorded return to:
Arizona Conservation Easement Stewards, Inc.
4568 E. Camp Lowell Drive
Tucson, AZ 85712

**AMENDED AND RESTATED
CONSERVATION EASEMENT
AND MANAGEMENT PLAN**

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**AMENDED AND RESTATED
CONSERVATION EASEMENT AGREEMENT
AND MANAGEMENT PLAN**

Title Security Agency, Inc., an Arizona corporation, as Trustee of Trust #1070 as Trustee only, as successor Grantor and Arizona Conservation Easement Stewards, Inc., an Arizona non-profit corporation, whose address is 4568 E. Camp Lowell, Tucson, AZ 85712 ("Grantee") as allowed Paragraph 19(J) of the Conservation Easement do hereby, amend and restate the Conservation Easement previously recorded on May 24, 2006 as Fee Number 060519938, in the Office of the Cochise County Recorder Cochise County ("Original Conservation Easement") and that this Amended and Restated Conservation Easement and Management Plan supersede and does replace the Original Conservation Easement.

It is intended that the definitions, intent, meaning and purpose of this Conservation Easement be identical to the Original Conservation Easement except as expressly amended herein.

BACKGROUND, HISTORY AND INTENT:

1. The Plat of this Subdivision was originally filed as Kinjockity Ranch on May 24, 2006 in Book 15 of Plats at pages 57 - 57-Q.

2. Subsequently, the Plat was amended on May 3, 2007 in Book 15 of Plat at Pages 76 to 76K.

3. The Plat was again amended on May 29, 2007 in Book 15 of Plats Pages 78 - 78K.

4. The Plat is now being amended to reconfigure Wilderness Drive, E. Bull Roper Circle, E. Bunkhouse Court, Lots, Common Areas & Conservation Areas adjacent of said Streets.

5. The Amended Final Plat also adds Slope & Public Utility Easements as shown on the Amended Plat and changes the Subdivision name to Kings Ranch Estates, Lots 1 to 281, inclusive, and Common Area "A" and Common Area "B".

6. The intent of the Grantee and Grantor is to amend and restate the Conservation Easement previously recorded on May 24, 2006 as Fee Number 060519938, in the Office of the Cochise County Recorder Cochise County ("Original Conservation Easement") and that this Amended and Restated Conservation Easement supersede and replace the Original Conservation Easement. It is intended that the definitions, intent, meaning and purpose of this Conservation Easement be identical to the Original Conservation Easement except as expressly amended herein.

RECITALS:

I. **GRANTOR.** Grantor under this document is the successor to sole owner in fee simple of certain real property in Cochise County, Arizona, more particularly defined as the "Conservation Easements" as shown on the Amended Final Plat of Kings Ranch Estates, Lots 1-281, inclusive and Common Area "A" and Common Area "B" as recorded in the Office of the Recorder of Cochise County on December 11, 2009 at Fee # 2009-29820 ("Plat of Kings Ranch" or "Kings Ranch" or "Kings Ranch Estates"). The term "Grantors" or "Grantor" shall refer to Kings Ranch, an Arizona limited liability company and each successor Owner of each Lot or Common Area in Kings Ranch Estates Subdivision sold by Kings Ranch, LLC, or its successors, to a third party, and their personal representatives, heirs, successors and assigns in title to the Protected Property, as the context requires.

II. **PROTECTED PROPERTY.** The Protected Property is that real property depicted and defined as "Conservation Easements" on the Plat of Kings Ranch ("Protected Property").

The Protected Property contains approximately ^{426.}~~433~~ acres of natural habitat including vegetation communities of Sonoran desertscrub, deciduous riparian woodland, oak savannah and grassland. The Protected Property is currently used for hiking, equestrian, low impact recreational use and nature observation. There are no existing improvements on the Protected Property.

The Protected Property possesses natural, scenic and open space values (collectively, "conservation values") of great importance to Grantor, the people of Cochise County, the future and prospective residents and lot owners of Kings Ranch and members of the Kings Ranch Estates Homeowners Association.

III. **GRANTEE.** Arizona Conservation Easement Stewards, Inc. ("ACES") is a non-profit corporation organized and operated exclusively for charitable and educational purposes, including the preservation and protection of land in its natural, scenic or other open space condition. ACES is or will be qualified as a public charity, as defined in Sections 501 (c) (3) and 509 (a) of the Internal Revenue Code, a "qualified organization" under Section 170 (h) of the Internal Revenue Code and related regulations, and an organization qualified to hold conservation easements under section 33-271 (3)(b), Arizona Revised Statutes ("A.R.S."). The term "Grantee" includes ACES and successors or assigns to its interest in this Easement.

IV. **CONSERVATION VALUES.** The Protected Property has the following natural, scenic and open space qualities of significant importance:

- The woodlands and open areas provide scenic views visible to the public from Arizona Highway 92.
- The undeveloped and natural character of the Protected Property provides habitat to a variety of plants, animals and riparian communities.

The specific conservation values of the Protected Property are documented in the Present Conditions Report ("Present Conditions Report"), prepared by The Planning Center and dated August 10, 2004, on file at the office of Arizona Conservation Easement Stewards, Inc. and incorporated by this reference, which consists of descriptions, reports, maps, photographs, and other documentation that the parties agree provide, collectively, an accurate representation of the Protected Property at the time of this grant and which is intended to serve as an objective information baseline for monitoring compliance with the terms of this grant.

Preservation and protection of the Conservation Values of the Protected Property must meet the requirements of sections 170(h)(4)(A)(ii) and 170(h)(4)(A)(iii) of the Internal Revenue Code of 1986. These sections set forth the requirement that a conservation easement must be exclusively for conservation purposes, including:

170(h)(4)(A)(ii): "the protection of a relatively natural habitat of fish, wildlife, or plants, or similar ecosystem,"

170(h)(4)(A)(iii): "the preservation of open space (including farmland and forest land) where such preservation is – (I) for the scenic enjoyment of the general public, or (II) pursuant to a clearly delineated federal, state or local government conservation policy, and will yield a significant public benefit."

V. **CONSERVATION POLICY.** The State of Arizona has clearly delineated a conservation policy, and preservation of the Protected Property will yield a significant public benefit. Arizona's conservation policy includes: A.R.S. section 33-271, et seq., which recognizes the importance of private conservation efforts by authorizing the creation of conservation easements for the protection of natural habitat or open space "for the scenic enjoyment of the general public."

VI. **CONSERVATION INTENT.** It is the intent of the Parties to create and implement a Conservation Easement that is binding upon the current owner and all future owners of the Protected Property and to convey to Grantee the right to preserve and protect the conservation values of the Protected Property in perpetuity, for the benefit of present and future generations and to provide for the enjoyment of such Easement by members of the public, citizens of Cochise County and the residents and

guests of Kings Ranch owners.

Grantor intends to create a Conservation Easement under A.R.S. §33-272, and hereby makes a charitable gift of the property interest conveyed by this Easement to Grantee.

ACKNOWLEDGEMENT OF INTENT

By accepting Deeds, Leases, easements or other grants or conveyances to any portion of the Subdivision, the Grantee and Grantor and their heirs, executors, administrators, trustees, personal representatives, successors and assigns, agree that they will be personally bound by the agreements contained herein, except to the extent such persons are specifically exempted therefrom.

The Parties herein expressly declare their agreement and understanding as follows, which agreement may be used as a guide to the interpretation and administration of this Easement regarding its use and management.

In recognition of the fact that it may be appropriate to implement different management strategies in different portions of the Protected Property at different times, Grantor and Grantee intend that flexibility, consistent with this Easement's purpose, be applied in the management of the Protected Property. Subject only to the Conservation Purpose set forth below, it is the intent of the Parties to permit all other uses which are not inconsistent with the preservation and protection of the Conservation Values and which are not expressly prohibited herein.

CONVEYANCE OF CONSERVATION EASEMENT

NOW, THEREFORE, in consideration of the above recitals and the mutual covenants contained herein, and pursuant to the laws of the State of Arizona and in particular Cochise County Subdivision Regulations Section 603, et. seq., and A.R.S. § 33-271, et. seq., Grantor hereby voluntarily grants and conveys to Grantee a perpetual Conservation Easement over the Protected Property. Grantor and Grantee hereby agree that this Easement consists of the following rights, terms, conditions, and restrictions:

1. **Conservation Purpose.** It is the purpose of this Easement to assure that the Protected Property will be retained in perpetuity and predominantly in its natural, scenic, and open space condition and to prevent any use of the Protected Property that will significantly impair or interfere with the conservation values of the Protected Property. Grantor intends that this Easement will confine the use of the Protected

Property to such activities as are intended under Cochise County Subdivision Regulations 603, et. seq., as are consistent with the purpose of this Easement, and by providing for remedies in the event of any violation of this Easement.

2. **Rights of Grantee.** In order to accomplish the purpose of this Easement, the following rights are hereby conveyed to Grantee:

A. To preserve and protect the Conservation Values of the Protected Property.

B. To enter upon the Protected Property at reasonable times (as established by the Grantee's Board of Directors, but at least one time per year) in order to monitor Grantor's compliance with and otherwise enforce the terms of this Easement; provided that such entry shall be upon prior reasonable notice to Grantor, and Grantee shall not unreasonably interfere with Grantor's use and quiet enjoyment of the Protected Property. Reasonable notice shall not be required in cases where Grantee determines, in its sole discretion, that immediate entry is required to prevent or mitigate significant damage to the Protected Property or if reasonable, good faith efforts to notify the Grantor are unsuccessful. Grantee shall submit a copy of the annual monitoring Report to the Director of the Cochise County Planning Department of his or her designee.

C. To prevent any activity on or use of the Protected Property that is inconsistent with the purpose of this Easement and to require the restoration of such areas or features of the Protected Property that may be damaged by any inconsistent activity or use.

D. To obtain evidence for use in seeking judicial or other enforcement of this Easement.

E. To report any environmental concerns or conditions or any actual or potential violations of any environmental laws to the appropriate regulatory agencies.

F. To enforce the terms and conditions of this Easement pursuant to paragraph 6, below.

G. To confer, negotiate and coordinate with various federal, state or other governmental agencies with regard to the conditions, determinations or factors associated with environmental, wildlife, habitat or other issues regulated or subject to approval or permitting by any governmental agency, including, but not limited to, consideration of a section 404 permit by the United States Army Corps of Engineers, any native plant preservation ordinance or any evaluation or

consideration of habitat of sensitive, threatened or endangered species. Additionally, to coordinate and participate with other local preservation organizations with similar conservation purposes as are intended by this Easement.

H. To establish, levy, collect and disburse the Conservation Management Fees, Special Conservation Management Assessments, Transfer Fees and other charges imposed hereunder; and as the agent and representative of the Grantors and Residents of the Subdivision, administer and enforce all provisions hereof and enforce use and other restrictions imposed on the Property by this Conservation Easement.

Nothing in this section shall preclude the right of Grantee to enforce the preservation and protection of the Conservation Values or any other provisions of this Easement.

3. **Restricted Uses.** Any activity on or use of the Protected Property inconsistent with the purpose of this Easement is prohibited. This prohibition specifically includes any future activities that would interfere with the essential scenic quality of the Protected Property or the visual enjoyment of the open and natural character of the Protected Property by the general public. Without limiting the generality of the foregoing, the following activities and uses are specifically prohibited:

A. Agriculture activities. "Agriculture" (or "Agricultural" as the context requires), means all methods of production and management of livestock, crops, trees, grass yards and other vegetation, as well as aquiculture. This includes the related activities of tillage, fertilization, pest control, and harvesting as well as the feeding, housing, training and maintaining of animals such as cows, sheep, goats, hogs, horses, and poultry.

B. Display of billboards, signs or advertisements on or over the Protected Property.

C. Dumping or placement of soil, rock, other earth materials, trash, ashes, garbage, waste, abandoned vehicles, appliances, machinery and other materials on the Protected Property.

D. Mining, grading, excavation or extraction of loam, gravel, soil, rock, sand, coal petroleum and other minerals or materials.

E. Temporary or permanent buildings, structures, roads or means of access, landscaping and other improvements of any kind.

F. Parking or storage of any vehicles, trailers, boats or other motorized or non-motorized vehicles, of any kind whatsoever.

G. Roads or other rights of way, except that unpaved paths, foot trails or equestrian trails may be established on the Protected Property for recreational uses. No right of access by the general public to any portion of the Protected Property is conveyed by this Easement, except that Grantee, with the approval of the Board of Directors of the Kings Ranch Homeowners Association, may allow connection of these unpaved paths, foot trails or equestrian trails to any conservation easement or easements in adjacent conservation subdivisions and allow the joint use of the Protected Property by the residents or owners of such adjacent conservation subdivision.

H. Any other activity which would interfere with the Protected Property being left in its natural and undisturbed state.

I. Motorized recreational vehicles of any kind, including, but not limited to, dune buggies, motorcycles, and all-terrain vehicles.

J. The treatment, storage, disposal or release of hazardous materials on, from or under the Protected Property. For the purpose of this Easement, hazardous materials shall mean any hazardous or toxic material or waste that is subject to any federal, state, or local law or regulation. Notwithstanding anything in this Easement to the contrary, this prohibition does not impose any liability on Grantee for hazardous materials, nor does it make Grantee an owner of the Protected Property, nor does it permit or require Grantee to control any use of the Protected Property that may result in the treatment, storage, disposal or release of hazardous materials within the meaning of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA").

K. Construction of fences, except as needed in carrying out activities permitted by this Easement, and specifically a perimeter fence which would further the preservation and protection of the Conservation Values of this Easement, so long as no fences are located or constructed in a manner that interferes with established wildlife corridors.

L. Any industrial or commercial activities or use of the Protected Property.

4. **Reserved Rights.** Grantor reserves to itself, and to its personal representatives, heirs, successors, and assigns, all rights accruing from its ownership of the Protected Property, including the right to engage in, or permit or invite others to engage in, all uses of the Protected Property that are not expressly prohibited herein

and are not inconsistent with the purpose of this Easement. Grantor may not, however, exercise these rights in a manner that would adversely impact the Conservation Values of the Protected Property. Additionally, Grantor must give notice to Grantee before exercising any reserved right that might have an adverse impact on the Conservation Values associated with the Protected Property. Without limiting the generality of the foregoing, the following rights are expressly reserved:

- A. Peaceful, quiet, exclusive enjoyment of the Protected Property;
- B. Activities necessary to preserve the health, safety or integrity of the Protected Property, including, but not limited to, the protection from erosion or flooding;
- C. Wildlife and habitat management. Grantor may maintain, manage, restore or enhance habitat for wildlife and native biological communities in accordance with a management plan approved by Grantee in writing.
- D. Reasonable access by the residents of Kings Ranch and their guests for hiking, walking, equestrian or similar recreational use; and
- E. Control of non-native and invasive species.
- F. Right to Convey. Grantor may sell, give, lease, bequeath, devise, mortgage or otherwise encumber or convey the Protected Property, provided, however, that any conveyance or encumbrance of the Protected Property is subject to this Conservation Easement. Further, Grantor within five (5) days or more before closing, obtain from Grantee the amount of any Transfer Fee and arrange for payment of the Transfer Fee (which may be paid by either transferee or transferor as agreed by between them), and will provide Grantor within five (5) days after closing, with the name and address of the new owner, a copy of the deed transferring title.

The enforceability or validity of this Easement will not be impaired or limited by any failure of Grantor to comply with this subparagraph.

5. **Notice of Intention to Exercise Certain Reserved Rights.** The purpose of requiring Grantor to notify Grantee prior to exercising certain reserved rights, as provided in paragraph 4 B., C. and E., above, is to afford Grantee an opportunity to ensure that the activities in question are designed and carried out in a manner consistent with the purpose of this Easement. Whenever notice is required, Grantor shall notify Grantee in writing not less than thirty (30) days prior to the date Grantor intends to undertake the activity in question. The notice shall describe the nature,

scope, design, location, timetable, and any other material aspect of the proposed activity in sufficient detail to permit Grantee to make an informed judgment as to its consistency with the purpose of this Easement.

6. Notice of Intention to Construct. Before the Owner of any Lot shall commence the construction, installation, or alteration of any residence, building, swimming pool, patio wall, fence, awning, or other structure whatsoever, including decking and landscaping, on any Lot, such Owner shall submit to the Grantee two complete sets of plans, specifications and construction details for said structure showing the location of the structures, the proposed grading of the Lot to be built upon and the location of the Easement in relation to those proposed structures and grading. No structure of any kind shall be erected, altered or placed in or on any portion of the Easement. No construction shall be commenced until the plans, specifications, and construction details therefore shall have received the written approval of Grantee. The Grantee may establish a reasonable fee for the review of such plans. The Grantee shall not be responsible in any way for any defects in any plans, specifications, or construction details submitted in accordance with the foregoing, nor for any structural defects in any building or structure erected according to such plans, specifications, or construction details.

7. Grantee's Approval. Where Grantee's approval is required by any provision of this Easement, Grantee shall grant or withhold its approval in writing within sixty (60) days of receipt of Grantor's written request therefore. Grantee's approval may be withheld only upon a reasonable determination by Grantee that the action as proposed would be inconsistent with the purpose of this Easement.

8. Grantee's Right of Enforcement. In order to accomplish the purposes of this Easement, to prevent or require correction of violations of the terms of the Easement, Grantor has the following rights and remedies:

A. Notice of Violation. If Grantee determines that Grantor is in violation of the terms of this Easement or that a violation is threatened, Grantee shall give written notice to Grantor, pursuant to Section 16, below. If Grantor has conveyed title to all or part of the Protected Property to its successors in interest who owns that portion or portions of the Protected Property on which such violation occurs, Grantee shall give notice to such successors of such violation and demand corrective action sufficient to cure the violation.

B. Remedies. Where the violation involves injury to the Protected Property resulting from any use or activity inconsistent with the purpose of this Easement, Grantee may demand that Grantor or its successor restore the portion of the

Protected Property so injured. If Grantor fails to cure the violation within thirty (30) days after receipt of notice thereof from Grantee, or under circumstances where the violation cannot reasonably be cured within a thirty (30) day period, fails to begin curing such violation within the thirty (30) day period, or fails to continue diligently to cure such violation until finally cured, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation, *ex parte* as necessary, by temporary or permanent injunction, to seek specific enforcement or declaratory relief, to recover any damages to which it may be entitled for violation of the terms of this Easement or injury to any conservation values protected by this Easement, including damages for the loss of scenic, aesthetic, or environmental values, and to require the restoration of the Protected Property to the condition that existed prior to any such injury.

If Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the conservation values of the Protected Property, Grantee may pursue its remedies under this paragraph without prior notice to Grantor or without waiting for the period provided for cure to expire. Grantee shall not be required to post any bond applicable to a petition to seek expedited relief.

C. **Damages.** Without limiting Grantor's liability therefore, Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Protected Property. Grantee's rights under this paragraph apply equally in the event of either actual or threatened violations of the terms of this Easement, and Grantor agrees that Grantee's remedies at law for any violation of the terms of this Easement are inadequate and that Grantee shall be entitled to the injunctive relief described in this paragraph, both prohibitive and mandatory, in addition to such other terms of this Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Grantor and Grantee recognize that restoration, regardless of cost, may be the only adequate remedy for certain violations of this Easement. Grantee's remedies described in this paragraph shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

D. **Costs of Enforcement.** Any costs incurred by Grantee in enforcing the terms of this Easement against Grantor, including, without limitation, costs of suit and attorneys' fees, and any costs of restoration necessitated by Grantor's violation of the terms of this Easement, shall be borne by Grantor. If Grantor prevails in any action to enforce the terms of this Easement, Grantor's costs of suit, including, without limitation, attorneys' fees, shall be borne by Grantee.

E. **Grantee's Discretion.** Enforcement of the terms of this Easement shall be at the sole discretion of Grantee, and any forbearance by Grantee to exercise its rights under this Easement in the event of any breach shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach or of any of Grantee's rights under this Easement. No delay or omission by Grantee in the discovery of a violation or initiation of enforcement proceedings shall impair such right or remedy or be construed as a waiver or forfeit of its rights.

F. **Waiver of Certain Defenses.** Grantor hereby waives any defense of laches, estoppel, or prescription.

9. **Responsibilities of Grantor and Grantee not affected.** Other than as specified herein, this Easement is not intended to impose any legal or other responsibility on Grantee, or in any way to affect any existing obligations of Grantor as owner of the Protected Property. Unless otherwise specified below, nothing in this Easement shall require Grantor to take any action to restore the condition of the Protected Property after any injury to or change in the Protected Property resulting from causes beyond Grantor's control, including, without limitation, fire, flood, storm, natural deterioration, earth movement or the unauthorized acts of persons other than Grantor or its agents, or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Protected Property resulting from such causes. Grantor shall continue to be solely responsible and Grantee shall have no obligation for the upkeep and maintenance of the Protected Property, and Grantor understands that nothing in this Easement relieves Grantor of any obligation or restriction on the use of the Protected Property imposed by law. Among other things, this shall apply to:

A. **Taxes.** Grantor shall pay before delinquency all taxes, assessments, fees, and charges of whatever description levied on or assessed against the Protected Property (collectively "taxes"), including any taxes imposed upon, or incurred as a result of, this Easement. The Grantor may, at its discretion, pay any outstanding taxes or assessments and shall then be entitled to reimbursement from Grantor.

B. **Liability.** Grantor shall be responsible for the maintenance of adequate comprehensive general liability insurance coverage for the Protected Property and Grantor will name Grantee as an additional insured on such policy carried by Grantor with respect to the Protected Property. Grantor may satisfy its obligation to insure through any homeowners association. Nothing herein shall impose a duty upon Grantee to verify the existence or adequacy of said insurance

coverage. Additionally, Grantor shall indemnify, defend, and hold Grantee Harmless from any and all costs or liability for any personal injury or property damage occurring on or related to the Protected Property or the existence of this Easement.

C. **Joint and Several Liability.** Grantor and all successors shall be jointly and severally liable for complying with all of the terms and conditions of this Easement on all parcels which currently make up the Protected Property.

D. **Termination of Rights and Obligations.** This Easement shall be a servitude running with the land in perpetuity. Every provision of this easement that applies to Grantor or Grantee shall also apply to their respective agents, heirs, executors, administrators, assigns, and all other successors as their interest may appear. A party's rights and obligations under this Easement terminate (as to that Party only and not as to such Party's successor, who shall be bound as provided herein) only upon the transfer or termination of that Party's entire interest in this Easement or the Protected Property, provided, however, that any liability for acts or omissions occurring prior to the transfer or termination will survive that transfer or termination.

10. **Extinguishment.** If circumstances arise in the future that render the purpose of this Easement impossible to accomplish, this Easement can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction. Any extinguishment of any portion of the Easement shall require approval of an amendment to the Plat by the Cochise County Board of Supervisors, with the Board of Supervisors specifying findings of fact in favor of extinguishing the portion of the Easement. The amount of the proceeds to which Grantee shall be entitled, after the satisfaction of prior claims, from any sale, exchange, or involuntary conversion of all or any portion of the Protected Property subsequent to such termination or extinguishment, shall be determined, unless otherwise provided by Arizona law at the time, in accordance with their respective percentage interests as determined by a court of competent jurisdiction or as otherwise agreed between Grantee and Grantor. Grantee shall use all such proceeds in a manner consistent with the conservation purposes of this Easement.

11. **Change of Circumstance.** Grantor and Grantee recognize that, in the future, uses of the Protected Property prohibited by this Easement may become more economically viable than those uses permitted by the Easement and that neighboring properties may be put entirely to uses not permitted on the Protected Property by this Easement. Grantor and Grantee believe that such changes will increase the public benefit protected by this Easement and therefore, such changes are not considered unexpected changes and shall not be deemed to be circumstances justifying the extinguishment of this Easement as set forth in paragraph 10, above.

12. **Condemnation.** If the Easement is taken, in whole or in part, by exercise of the power of eminent domain, or is acquired by a public authority through a purchase in lieu of a taking, Grantee and Grantor shall be respectively entitled to compensation from the recovered proceeds (after reasonable expenses incurred in connection with such taking are paid) in accordance with their respective percentage interests as determined by a court of competent jurisdiction or as otherwise agreed between them.

13. **Assignment.** This Easement is transferable, but Grantee may assign its rights and obligations under this Easement only to an organization that is a qualified organization at the time of transfer under Section 170(h) of the Internal Revenue Code, as amended (or any successor provision then applicable), and the applicable regulations promulgated thereunder, and authorized to acquire and hold conservation easements under Arizona law (or any successor provision then applicable). Grantee shall notify Grantor in advance of any proposed transfers. As a condition of such transfer, Grantee shall require that the conservation purposes that this grant is intended to advance continue to be carried out and that the transferee expressly agrees to assume the responsibility imposed on Grantee by this Easement. If Grantee ever ceases to exist or no longer qualifies under federal or state law, a court with jurisdiction shall transfer this Easement to another qualified organization having similar purposes approved in advance in writing by Grantor and that agrees to assume the responsibility.

14. **Subsequent Transfers.** Grantor agrees to incorporate the terms of this Easement in any deed or other legal instrument by which it divests itself of any interest in all or a portion of the Protected Property, including, without limitation, a leasehold interest. Grantee agrees that the sale or transfer by Grantor of a portion of the Protected Property shall relieve the Grantor (but not its successor in interest) from all responsibilities under this agreement as to the Protected Property or portion thereof transferred (except for any liability of the Grantor for violation of the terms and conditions of this Conservation Easement incurred prior to transfer) and that this agreement shall be enforceable only against the person or persons owning the Protected Property subject to this agreement. Grantor shall further give notice of any transfer to Grantee as provided in Paragraph 4(F) of this Conservation Easement. The failure of Grantor to perform any act required by this paragraph shall not impair the validity of this Easement or limit its enforceability in any way.

15. **Estoppel Certificates.** Upon request by Grantor, Grantee shall within twenty (20) days execute and deliver to Grantor any document, including an estoppel certificate, which certifies Grantor's compliance with any obligation of Grantor contained in this Easement and otherwise evidences the status of this Easement as may be requested by Grantor.

16. **Notices.** Any notice, demand, request, consent, approval, or

communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by first class mail, postage prepaid, addressed as follows:

To Grantor: 4568 E. Camp Lowell
Tucson, AZ 85712

To Grantee: 4568 E. Camp Lowell Dr.
Tucson, AZ 85712

or to such other address as either party from time to time shall designate by written notice to the other or as shall be listed with the Arizona Corporation Commission. Subsequent Grantees of the original Grantor, Dunafon Development, LLC, or any successor Grantor, shall provide at closing of the purchase of any Lot, an address for notice under this section to Grantee.

17. **Effective Date Upon Recordation.** The restrictions arising from this Easement shall take effect on the date that Grantee shall record this instrument in timely fashion in the official records of Cochise County, Arizona. Grantee may re-record it at any time as may be required to preserve its rights in this Easement.

18. **Covenant for Conservation Management Fees, Special Conservation Management Assessments and Transfer Fees.**

A. **Creation of the Lien and Personal Obligations.**

i. Except as provided in the paragraph below, each Grantor, by acceptance of a deed to any Lot, whether or not it shall be expressed in the deed to his/her/its Lot, is deemed to covenant and agree to pay to the Grantee: (1) a Regular Conservation Management Fee ("Management Fee"), (2) Special Conservation Management Assessment ("Special Assessment") and (3) Transfer Fees; such fees and assessments shall be established and collected as hereinafter provided. The Management Fees, Special Assessments and Transfer Fees, together with interest, costs and reasonable attorneys' fees, shall be a charge on each Lot and shall be a continuing lien upon the Lot against which such Management Fees, Special Assessments and Transfer Fees are levied. Such Management Fees, Special Assessments, and Transfer Fees, together with interest, costs, including reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the Management Fees, Special Assessments and Transfer Fees are levied, and any subsequent Grantor.

ii. Notwithstanding the provisions contained in the paragraph above, any Lot which does not have a residence constructed thereon and is owned by the Grantor or any affiliate or successor of Grantor shall be exempt from the Management Fees and Special Assessments. Provided, however, that a Transfer Fee shall be due on any sale from Grantor to a third party. Further, thirty (30) days after the sale of any such Lot, Management Fees shall commence and any Special Assessments approved after the date of sale shall also be effective, as provided for herein.

B. **Transfer Fee.** A Transfer Fee shall be charged in an amount as established by Grantee's Board of Directors. Said Transfer Fee shall be due and payable upon the sale of a lot. The Transfer Fee is initially established at \$250.00.

C. **Purpose of Management Fees, Special Assessments.** The regular dues and special assessments levied by the Grantee's Board of Directors shall be used exclusively for the purpose of Grantee's administrative expenses, including but not limited to general expenses of Grantee (which may or may not be related to the easement created hereunder including but not limited to furthering the creation, research, management of conservation easements in general, education of the public about the benefits of conservation easements) and costs of administrative expenses of the Conservation Easement created hereunder, enhancing and protecting the value, desirability, and attractiveness of the Property, repairing any damage to the Easement, enforcement expenses and any and all other expenses required to effect the purposes of this Conservation Easement.

D. **Management Fees.**

i. The annual dues for the calendar year 2006 (January 1 through December 31) shall be established at the meeting of the Grantee's Board of Directors prior to June 30, 2006.

ii. The due dates and place of payment shall be established by the Grantee's Board of Directors.

iii. Within ninety (90) days prior to the end of each succeeding calendar year, the amount of dues shall be set by the Grantee's Board of Directors.

16.4 Special Assessments. In addition to the dues authorized above, the Grantee's Board of Directors may levy Special Assessment for establishing or reestablishing a reserve fund for paying unusual costs, including but not limited to restoration of the Conservation Easement. Special Assessments, unless otherwise specified by Grantee's Board of Directors, shall be due within sixty (60) days of the date upon which notice is given to the Owner that they are due.

E. **Uniform Rate of Fees and Assessments.** Except as provided for above, both Management Fees and Special Assessments will be fixed at a uniform rate for all Lots. Specifically provided, however, that the King Ranch Homeowners Association, Inc., ("Association") or any successor thereto, shall not pay Management Fees, Special Assessments, or Transfer Fees on Association owned Common Area property subject to the Conservation Easement. The costs attributable to the Association owned property shall be included in the Management Fees and Special Assessments imposed on the Lots. The foregoing exemption shall not exempt the Association from the other covenants and conditions provided in this Conservation Easement.

F. **Effect of Non-Payment of Management Fees, Special Assessments and Transfer Fees; Remedies of the Grantee.** Each Owner shall be deemed to covenant and agree to pay to the Grantee the Management Fees, Special Assessments, and Transfer Fees provided for herein, and agrees to the enforcement of same in the manner herein specified. All delinquent Management Fees, Special Assessments, and Transfer Fees not paid timely, shall incur a five percent (5%) late payment penalty and bear interest at the legal interest rate until paid, and late payments shall first be credited towards, late fees, interest due, then towards Management Fees, Special Assessments, and Transfer Fees first due. In the event the Grantee's Board of Directors employs an attorney for collection of any Management Fees, Special Assessments, and Transfer Fees, whether by suit or otherwise, or to enforce compliance with or specific performance of the terms and condition of this Declaration, or for any other purpose in connection with the breach of this Declaration, each Grantor agrees to pay reasonable attorneys' fees and costs thereby incurred, in addition to any other amounts due or any other relief or remedy obtained against said Grantor. In the event of a default in payment of any such Management Fees, Special Assessments, and Transfer Fees when due, in which case the regular dues or special assessments shall be deemed delinquent, and in addition to any other remedies herein or by law provided, the Grantee may enforce each such obligation in the manner provided by law or in equity, or without any limitation to the foregoing, by either or both of the following procedures:

i. **Enforcement by Suit.** The Grantee's Board of Directors may cause suit at law to be commenced and maintained in the name of the Grantee against an Owner to enforce each such regular dues or special assessment obligation. Any judgment rendered in any such action shall include the amount of the delinquency until paid, court costs, and reasonable attorneys' fees in such amount as the Court may adjudge against the delinquent Owner or Member.

ii. **Enforcement by Lien.** There is hereby created a right to record a claim of lien on each and every Lot to secure payment to the Grantee with interest thereon from the date of delinquency until paid, and all costs of collection which may be paid or

incurred by the Grantee in connection therewith, including reasonable attorneys' fees and costs. At any time after occurrence of any default in the payment of any such Management Fees, Special Assessments, and Transfer Fees, the Grantee, or any authorized representative may, but shall not be required to, make a written demand for payment to the defaulting Owner, on behalf of the Grantee. Said demand shall state the date and amount of delinquency. Each default shall constitute a separate basis for demand or claim of lien but any number of defaults may be included within a single demand or claim of lien. If such delinquency is not paid within ten (10) days after delivery of such demand, or, even without such a written demand being made, the Grantee may elect to record a claim of lien on behalf of the Grantee against the Lot of the defaulting Grantor. Such a claim of lien shall be executed and acknowledged by any officer of the Grantee, shall be recorded in the office of the County Recorder for Cochise County, Arizona, and shall contain substantially the following information:

- a. The name of the delinquent Grantor;
- b. The legal description of the Lot against which claim of lien is made;
- c. The total amount claimed to be due and owing for the amount of the delinquency, interest thereon, collection costs, and reasonable attorneys' fees and costs (with any proper offset allowed);
- d. A statement that the claim of lien is made by the Grantee pursuant to this document;
- e. A statement that a lien is claimed against said Lot in an amount equal to the amount stated; and
- f. A statement that the claim of lien will also extend to all regular dues or special assessments which become due but are not paid from the date of the recording of the claim of lien to the date of payment of all amounts set forth therein (including interest thereon, reasonable attorneys' fees and costs of collection), and that the claim of lien will only be deemed satisfied and released when the Owner is current in the payment of all such amounts.

The lien claimed therein shall attach as provided by Arizona law and become effective in favor of the Grantee as a lien upon the Lot. A copy of such lien shall be mailed to the Grantor. Such a lien shall have priority over all liens, deeds of trust or mortgages created subsequent to the recordation of the Conservation Easement created hereunder, except only tax liens for real property taxes on any Lot, assessments on any Lot in favor of any municipal or other governmental assessing unit.

Any such lien may be foreclosed by appropriate action in court or in the manner

provided by law for the foreclosure of a realty mortgage or trust deed as set forth by the laws of the State of Arizona, as the same may be changed or amended. The lien provided for herein shall be in favor of the Grantee. The Grantee shall have the power to bid in at any foreclosure sale and to purchase, acquire, hold, lease, mortgage, and convey any Lot. In the event such a foreclosure is by action in court, reasonable attorneys' fees, court costs, title search fees, interest and all other costs and expenses shall be allowed to the fullest extent permitted by law. Each Grantor hereby expressly waives any objection to the enforcement and foreclosure of this lien in this manner.

19. General Provisions.

a. **Controlling Law.** The interpretation and performance of this Easement shall be governed by the laws of the State of Arizona.

b. **Liberal Construction.** Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to effect the purpose of this Easement and the policy and purpose of ARS 33-241, et. seq., and Cochise County Subdivision Regulations 603, et. seq. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

c. **Severability.** If any provision of this Easement, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.

d. **Entire Agreement.** This instrument sets forth the entire agreement of the parties with respect to the Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Easement, all of which are merged herein. No alteration or variation of this instrument shall be valid or binding unless contained in an amendment that complies with sub part k of this paragraph.

e. **No Forfeiture.** Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.

f. **Successors.** The covenants, terms, conditions, and restrictions of this Easement shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and assigns and shall continue as a servitude running in perpetuity with the Protected Property.

g. Termination of Rights and Obligations. A party's rights and obligations under this Easement terminate upon transfer of the party's interest in the Easement or Protected Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

h. Captions. The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

i. Counterparts. The parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by both parties; each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

j. Amendment. Grantor and Grantee are free to jointly amend this Easement; provided that no amendment shall be allowed that will affect the qualification of this Easement or the status of Grantee under any applicable laws, including Section 170(h) of the Internal Revenue Code of 1954, as amended, and any amendment shall be consistent with the purpose of this Easement, and shall not affect its perpetual duration. Any such amendment shall be recorded in the official records of Cochise County, Arizona.

k. Third Party Enforcement. In addition to the right of the Grantee to enforce the terms of this Easement, Cochise County shall have all rights and remedies under this agreement. Provided, however, that this right of Third Party Enforcement shall not create any responsibility in Cochise County to enforce this agreement nor shall any claims or damages of any kind whatsoever arise against Cochise County for its failure to act to enforce this agreement. This Easement does not create rights or responsibilities in any other third parties not expressly mentioned herein.

l. "Lot" or "Lots" shall mean the Lots referred to in the Plat of Kings Ranch.


m. "Owner" shall mean the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Kings Ranch Estates Subdivision, referred to above, including contract sellers, but excluding those having an interest merely as security for the performance of an obligation.

TO HAVE AND TO HOLD unto Grantee, its successors, and assigns forever.

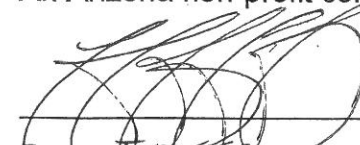
IN WITNESS WHEREOF Grantor and Grantee have set their hands on the day and year first above written.

Title Security Agency of Arizona,

an Arizona corporation as Trustee only,
under Trust #1070, only


By: DIANA L. SMITH
Its: TRUST ATTORNEY

Arizona Conservation Easement Stewards, Inc.,
An Arizona non-profit corporation


By: JEFFREY M. NEFF
Its: DIRECTOR

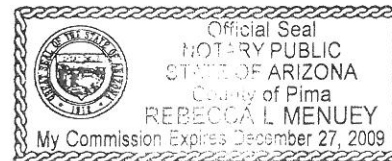
STATE OF ARIZONA)
COUNTY OF PIMA) s.s.

The foregoing instrument was acknowledged before me this 12 day of December, 2009, by Diane L. Spahr, as Trustee of Title Security Agency of Arizona, Inc., as Trustee only of Trust # 1070.

Rebecca L. Menuey

My Commission Expires: 12/27/09

Notary Public



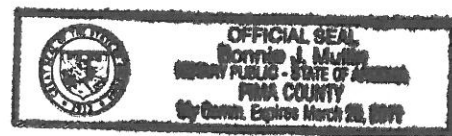
STATE OF ARIZONA)
COUNTY OF PIMA) s.s.

The foregoing instrument was acknowledged before me this 24 day of Sept, 2009, by JEFFREY M. HEFF, as an officer of ARIZONA CONSERVATION EASEMENT STEWARDS, INC., an Arizona non-profit corporation, on behalf of the corporation.

Bonnie J. Mullin

My Commission Expires:

Notary Public





Arizona Conservation Easement Stewards, Inc.
4568 E. Camp Lowell Drive
Tucson, Arizona 85712
P (520) 777-7999 F (520) 722-8032
www.acesaz.org

January 30, 2012

VIA E-MAIL kriggs@cochise.az.gov

Karen Riggs, P.E., L.S.
COCHISE COUNTY COMMUNITY DEVELOPMENT
1415 Melody Lane
Bisbee, AZ 85603

Re: Stormwater Capture and Recharge Project – Kings Ranch at Coronado

Dear Karen,

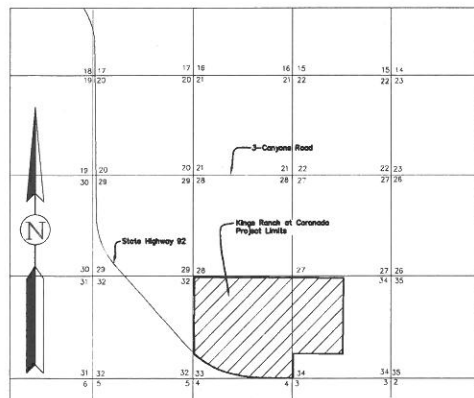
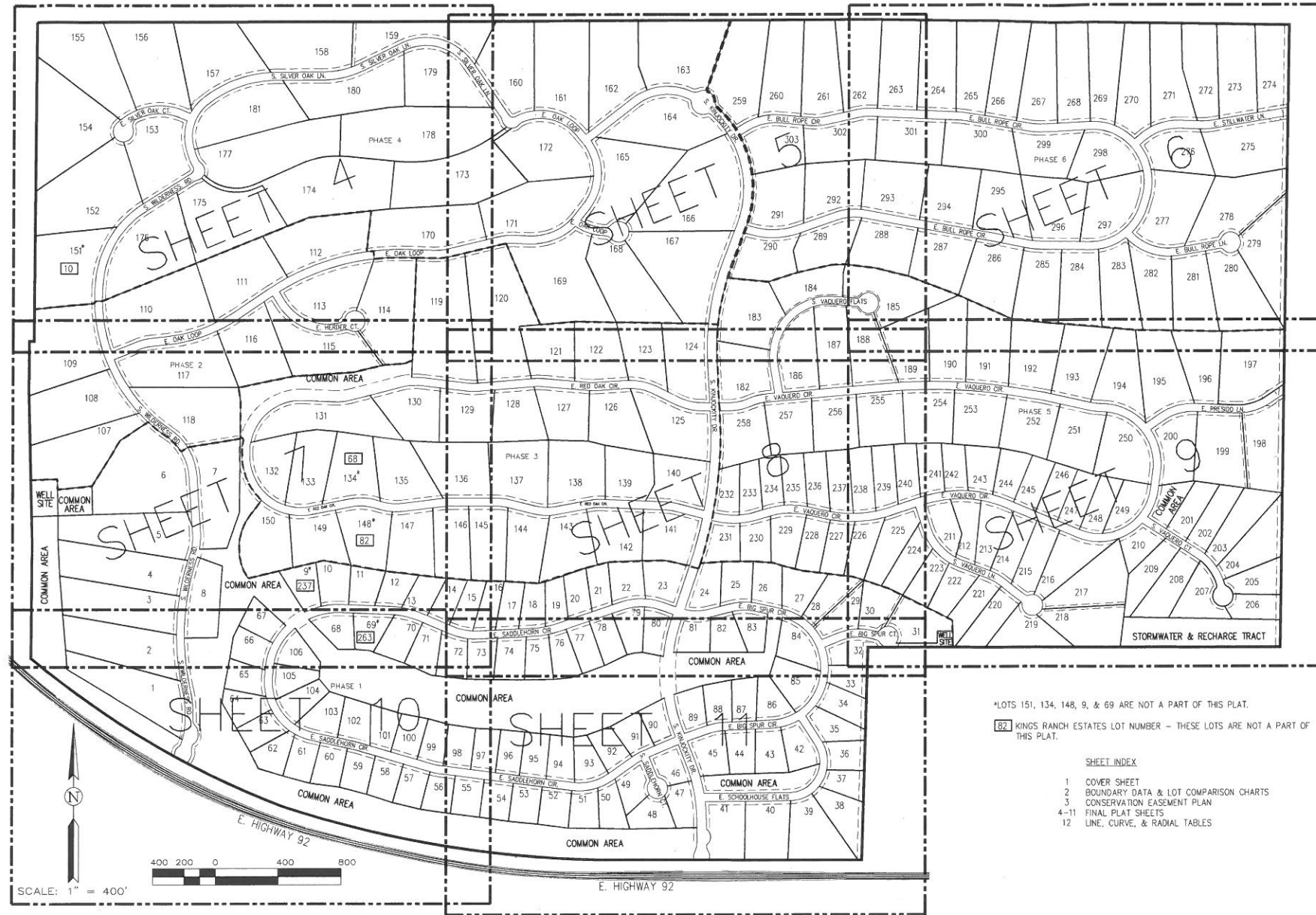
Thank you for meeting with us to explain your proposed stormwater capture and recharge project with us. We believe that the existing conservation easement at Kings Ranch at Coronado (formerly Kings Ranch Estates) provides an ideal location to implement this project. The fact that this project is directed toward groundwater recharge and more effective water use means that it furthers the purposes and goals of the conservation easement to preserve the natural habitat in this area.

We fully support this project and we look forward to working with you on its implementation.

Sincerely yours,


Jeffrey M. Neff
Director, Arizona Conservation Easement Stewards, Inc.

FINAL PLAT KINGS RANCH AT CORONADO



VICINITY MAP
LOCATION PLAN
SECTION 32/33/34 T/23S, R.21E,
COCHISE COUNTY, ARIZONA

LEGAL DESCRIPTION

BEING THAT PORTION OF SECTION (32), SECTION (33) AND SECTION (34), TOWNSHIP 23 SOUTH, RANGE 21 EAST OF THE GILA AND SALT RIVER MERIDIAN, COCHISE COUNTY, ARIZONA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID SECTION (33), SAID POINT BEING AN ALUMINUM CAP ON A STEEL ROD MARKED S28°/S29°/S32°/S33 USFS RLS 4080;

THENCE NORTH 89°53'49" EAST, ALONG THE NORTH LINE OF THE NORTHWEST 1/4 OF SAID SECTION (33) A DISTANCE OF 2691.84 FEET TO A FOUND MARKED STONE AND AN IRON PIN LYING ON ITS SIDE, SAID POINT BEING THE NORTH 1/4 CORNER OF SAID SECTION (33);

THENCE NORTH 89°48'19" EAST, A DISTANCE OF 2635.95 FEET TO A FOUND IRON PIN WITH AN ALUMINUM CAP, SAID POINT BEING THE NORTHEAST CORNER OF SAID SECTION (33);

THENCE SOUTH 89°11'31" EAST, ALONG THE NORTH LINE OF THE NORTHWEST 1/4 OF SAID SECTION (34), A DISTANCE OF 2648.29 FEET (AS SHOWN IN A RECORD OF SURVEY BOOK 9, PAGE 88, COCHISE COUNTY, ARIZONA) TO AN ANGLE IRON IN CONCRETE, SAID POINT BEING THE NORTH 1/4 CORNER OF SAID SECTION (34);

THENCE SOUTH 00°48'03" WEST, A DISTANCE OF 2617.06 FEET TO A FOUND IRON PIN MARKED RLS 11845 I&E, SAID POINT BEING THE CENTER 1/4 OF SAID SECTION (34);

THENCE SOUTH 00°48'01" WEST, A DISTANCE OF 1256.07 FEET TO A FOUND IRON PIN MARKED LS 23379, SAID POINT BEING THE NORTHEAST CORNER OF THE VALLEY VIEW ELEMENTARY SCHOOL AS SHOWN IN FEE # 980205232, COCHISE COUNTY RECORDER, ARIZONA;

THENCE NORTH 89°55'13" WEST, ALONG THE NORTH LINE OF SAID SCHOOL PROPERTY, A DISTANCE OF 2628.13 FEET TO A FOUND IRON PIN MARKED LS 23379, SAID POINT BEING THE NORTHWEST CORNER OF SAID SCHOOL PROPERTY;

THENCE SOUTH 01°36'42" WEST, ALONG THE WEST LINE OF SAID SCHOOL PROPERTY, A DISTANCE OF 1322.85 FEET TO A FOUND IRON PIPE FOUND MARKED LS 23379, SAID POINT BEING ON THE NORTHERLY RIGHT-OF-WAY LINE OF STATE HIGHWAY 92;

THENCE NORTH 89°56'01" WEST ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF SAID STATE HIGHWAY 92, A DISTANCE OF 1670.57 FEET TO AN ARIZONA DEPARTMENT OF TRANSPORTATION MONUMENT, SAID POINT ALSO BEING THE BEGINNING OF A CURVE, CONCAVE NORTHERLY AND HAVING A RADIUS OF 5,660.53 FEET;

THENCE WESTERLY, ALONG SAID CURVE AND ALONG SAID RIGHT-OF-WAY LINE, THROUGH A CENTRAL ANGLE OF 16°47'31" AND AN ARC DISTANCE OF 2048.74 FEET TO AN ARIZONA DEPARTMENT OF TRANSPORTATION MONUMENT, SAID POINT ALSO BEING THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 5679.58 FEET, FROM WHICH POINT A RADIAL LINE BEARS NORTH 17°51'28" EAST;

THENCE NORTHWESTERLY, ALONG SAID CURVE AND SAID NORTHERLY RIGHT-OF-WAY LINE, THROUGH A CENTRAL ANGLE OF 18°40'31" AND AN ARC DISTANCE OF 1851.24 FEET TO A FOUND IRON PIN MARKED RLS 11845 I&E;

THENCE DEPARTING SAID RIGHT-OF-WAY LINE, NORTH 00°27'26" EAST, ALONG THE WEST LINE OF THE SOUTHWEST 1/4 OF SAID SECTION (33), A DISTANCE OF 720.93 FEET TO A FOUND IRON PIN MARKED LS 14181;

*LOTS 151, 134, 148, 9, & 69 ARE NOT A PART OF THIS PLAT.

62 KINGS RANCH ESTATES LOT NUMBER - THESE LOTS ARE NOT A PART OF THIS PLAT.

SHEET INDEX

- 1 COVER SHEET
- 2 BOUNDARY DATA & LOT COMPARISON CHARTS
- 3 CONSERVATION EASEMENT PLAN
- 4-11 FINAL PLAT SHEETS
- 12 LINE, CURVE, & RADIAL TABLES

GENERAL NOTES

1. All streets within this subdivision are public streets owned and maintained by Cochise County. All streets within the subdivision shall be constructed in accordance with the Cochise County Road Design and Construction Standards and Specifications for Public Improvements.
2. All current easements are abandoned and replaced with the new easements depicted.
3. Prior to construction each lot must have a sewage disposal site investigation and soil evaluation that meets the requirements of Arizona Administrative Code Title 18, R18-9-A310. If the SAR is less than 0.2 gallons per day per square foot of soil or limiting conditions are found then the lot shall have an appropriate alternative system designed for that lot. County approval for all conventional septic systems must be obtained prior to commencement of construction. All alternative systems may require ADEO or County plan review and construction approval. Conventional leach fields or subsurface elements of alternative individual sewage treatment systems may be installed within the conservation easements so long as any disturbed land within such easements is restored to a natural condition, consistent with the surrounding terrain. Any land restoration of areas over surrounding septic systems must be accompanied in such a manner so as not to damage said systems. A minimum 100-foot setback is required from all wells and five (5) feet from all lot lines.
4. Dust and erosion control measures shall be employed during and post-construction and shall comply with the Cochise County Land Clearing Ordinance and ADEO stormwater permit requirements.
5. It is the subdividers responsibility to obtain any additional State or Federal permits.
6. Zoning is RU-4 and shall remain.
7. The length of streets is 10.43 miles.
8. In lots 1 thru 5 and 7 thru 109 and 111 thru 303, the proposed use of this plot is single family. A special use permit will be requested for lot 6 and lot 110 to allow for commercial use of the existing structures on these 2 lots.
9. No buildings \ structures shall be allowed within the building setback line.
10. The gross area of this subdivision is 840.72 acres.
11. Development density is 0.334 ac. (303 lots/840.72 acres=0.334)
12. The total number of lots is 303 including lot 6 and lot 110 (commercial use).
13. The minimum lot size is 0.86 acres.
14. The Growth Area is category "D".
15. Outside lighting shall not be directed or reflected onto other parcels. All outdoor lighting shall conform with the Cochise County Light Pollution Code.
16. Crossings or culverts shall be constructed as needed to ensure unobstructed water flow. The hydrology and culverts have been designed to pass the 100 year storm so that it deposits 12 inches or less of water on any road.
17. Any lot fencing along the ingress/egress easements shall be on the easement lines.
18. Fire protection shall be provided by Palominas Fire.
19. All easements for public utilities, together with the right of ingress and egress and the use of these utilities are for the sole purposes of construction, inspection, repair, removal, replacement, and maintenance of public utilities at will. No construction within these areas shall occur, except for improvements for driveway and landscaping purposes. Such improvements shall not interfere with the primary use by public utility companies, who shall not be liable for any damages to improvements placed upon these easements due to necessary operations using reasonable care.
20. This subdivision shall be served by the Bella Vista Water Co.
21. A total area equal to 426.72 ac, or 50.76% of the total land shall be designated as a conservation easement.
22. No fencing or structure shall be installed/erected within any conservation easement area.
23. The design of the subdivision provides for cross lot drainage and the existing natural terrain needs to be maintained such that the cross lot drainage will continue to flow in the historical pattern, across and over the developed lots. The natural storm water flow that crosses a lot shall not be diverted onto another lot or blocked from crossing a lot.
24. All lots, tracts, and private and/or public conservation easements shall not be further subdivided.
25. The existing perimeter fencing shall remain or replaced with fencing of equal or better condition to protect subdivision from roaming livestock.
26. Residential drip irrigation systems and turf irrigation systems shall be encouraged to have seasonal and rain adjustment capabilities. All must comply with water conservation measures as outlined in Section 412 of the Subdivision Regulations. This subdivision lies within the Sierra Vista Sub-Watershed Water Conservation and Management Policy Plan Area as adopted by the Board of Supervisors on March 21, 2006.
27. The County has approved the Hydrology and Hydraulic study and the Board of Supervisors has approved the signage and marking plan.
28. Maintenance of all drainageways within this subdivision shall be the responsibility of the Kings Ranch at Coronado HOA in accordance with the Kings Ranch at Coronado covenants and restrictions except those portions of the drainageways located within the conservation easements that fall under the responsibility of Cochise County in association with the construction and maintenance of stormwater capture and recharge facilities. The maintenance of these areas shall be the responsibility of Cochise County. Said responsibilities shall include, but are not limited to the prevention of health hazards such as the breeding of mosquitoes.
29. All corner lots must comply with the sight distance triangle standards/requirements.
30. In 100-year (1% chance) floodplains, the minimum finished floor elevations including basements shall be (12) inches above the calculated 1% chance water surface elevation at the building pad. No building shall be oriented in such a way as to block the natural storm runoff. All lots are subject to the requirements of the approved Hydrology and Hydraulic study prepared for this subdivision and on file with the Cochise County Highway and Floodplain Department.

WATER ADEQUACY NOTE

THE ARIZONA DEPARTMENT OF WATER RESOURCES ISSUED A DETERMINATION OF ADEQUATE WATER SUPPLY ON OCTOBER 6, 2005.

ACKNOWLEDGMENT

ON THIS _____ DAY OF _____, 20____, BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC, PERSONALLY APPEARED TITLE SECURITY AGENCY AS TRUSTEE UNDER TRUST NO. 321365, ACKNOWLEDGED AS THE OWNER/DEVELOPER OF K RANCH, LLC EXECUTED THE FOREGOING INSTRUMENT FOR THE PURPOSES THEREIN CONTAINED.

MY COMMISSION EXPIRES _____

NOTARY PUBLIC _____

DEDICATION

WE THE UNDERSIGNED OWNER OF SAID LAND SHOWN ON THIS PLAT DO HEREBY CONSENT TO THE SUBDIVISION OF SAID LAND IN THE MANNER SHOWN HEREON. WE FURTHER DEDICATE AND CONVEY ALL RIGHTS OF WAY AND EASEMENTS FOR THE PURPOSES STATED THEREON.

WE HEREBY GRANT TO ALL UTILITY COMPANIES ALL EASEMENT AND TO COCHISE COUNTY ALL STREETS AS SHOWN HEREON FOR THE PURPOSES OF ACCESS, INSTALLATION AND MAINTENANCE OF STREETS, ROADS AND UTILITIES AND OTHER USES AS DESIGNATED BY THIS PLAT.

PIONEER TITLE AGENCY, INC., AN ARIZONA CORPORATION, AS TRUSTEE OF TRUST NO. 321365, (NOT ACTING IN ITS CORPORATE CAPACITY) _____ DATE _____

CONSENTED TO BY DECLARANT:

K RANCH LLC, AND ARIZONA LIMITED LIABILITY COMPANY _____

KAROL GEORGE
ITS: MANAGER _____ DATE _____

PROPERTY OWNER/DEVELOPER

PIONEER TITLE AGENCY, INC., AN ARIZONA CORPORATION, AS TRUSTEE OF TRUST NO. 321365. _____

RECORDING DATA

STATE OF ARIZONA)
COUNTY OF COCHISE) SS

THIS INSTRUMENT WAS RECORDED AT THE REQUEST OF COCHISE COUNTY ON THIS _____ DAY OF _____, 20____, AT _____ m IN BOOK _____ OF MAPS AND PLATS AT PAGE _____

FEE # _____

COCHISE COUNTY RECORDER

DEPUTY RECORDER

GILBERT TECHNICAL SERVICES, INC.
1601 S. PASEO SAN LUIS, SUITE 203
SIERRA VISTA, ARIZONA 85635
(520) 458-5730

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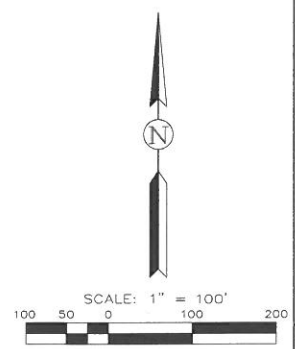
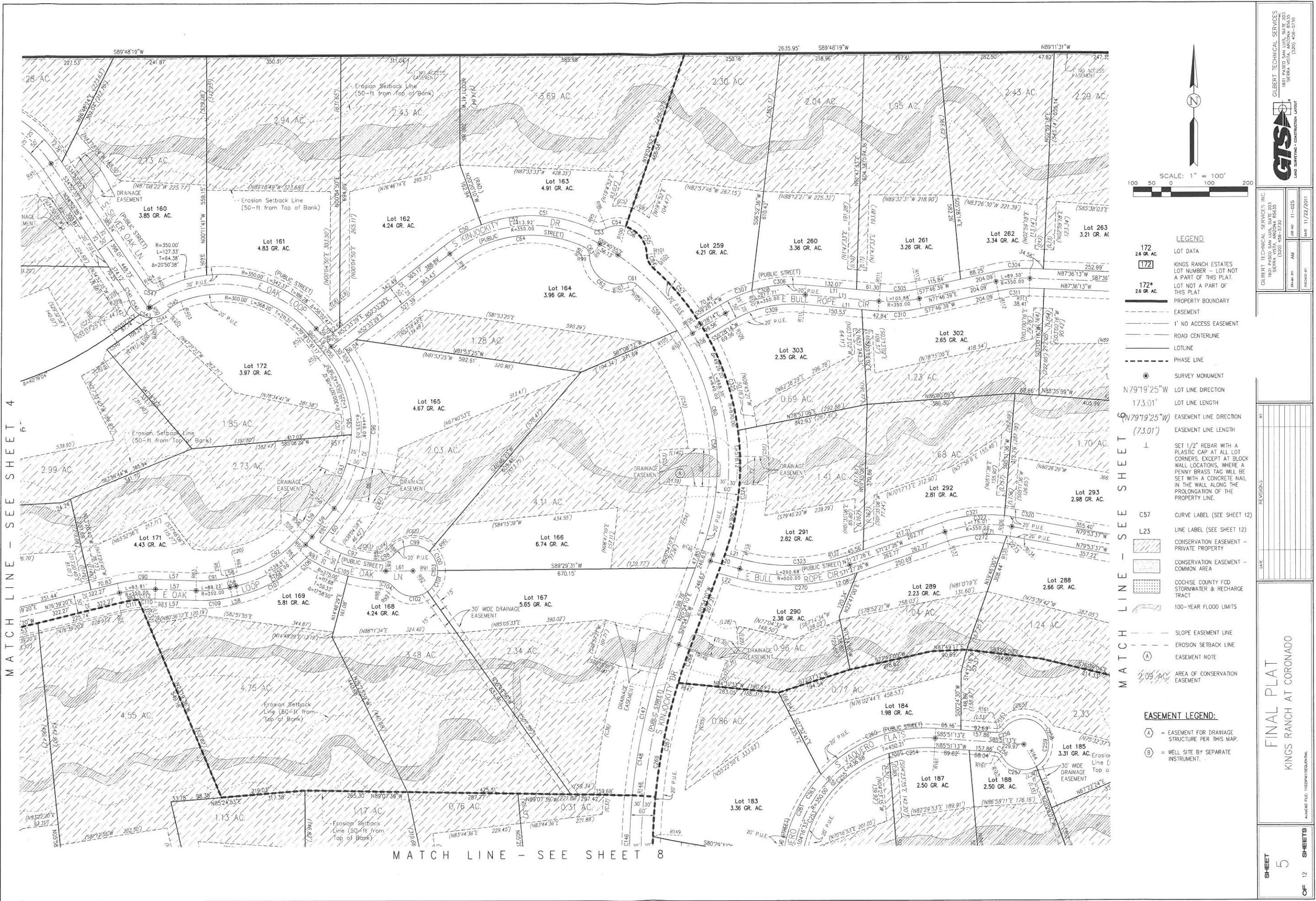
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1601 S. PASEO SAN LUIS, SUITE 203
SIERRA VISTA, ARIZONA 85635
(520) 458-5730



- LEGEND**
- 172 2.6 GR. AC. LOT DATA
 - 172 KINGS RANCH ESTATES LOT NUMBER - LOT NOT A PART OF THIS PLAT
 - 172* 2.6 GR. AC. LOT NOT A PART OF THIS PLAT
 - PROPERTY BOUNDARY
 - EASEMENT
 - 1' NO ACCESS EASEMENT
 - ROAD CENTERLINE
 - LOTLINE
 - PHASE LINE
 - SURVEY MONUMENT
 - LOT LINE DIRECTION
 - LOT LINE LENGTH
 - EASEMENT LINE DIRECTION
 - EASEMENT LINE LENGTH
 - SET 1/2" REBAR WITH A PLASTIC CAP AT ALL LOT CORNERS, EXCEPT AT BLOCK WALL LOCATIONS, WHERE A PENNY BRASS TAG WILL BE SET WITH A CONCRETE NAIL IN THE WALL ALONG THE PROLONGATION OF THE PROPERTY LINE.
 - C57 CURVE LABEL (SEE SHEET 12)
 - L25 LINE LABEL (SEE SHEET 12)
 - CONSERVATION EASEMENT - PRIVATE PROPERTY
 - CONSERVATION EASEMENT - COMMON AREA
 - COCHISE COUNTY FCD STORMWATER & RECHARGE TRACT
 - 100-YEAR FLOOD LIMITS
 - SLOPE EASEMENT LINE
 - EROSION SETBACK LINE
 - EASEMENT NOTE
 - AREA OF CONSERVATION EASEMENT

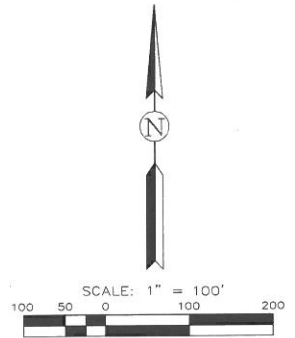
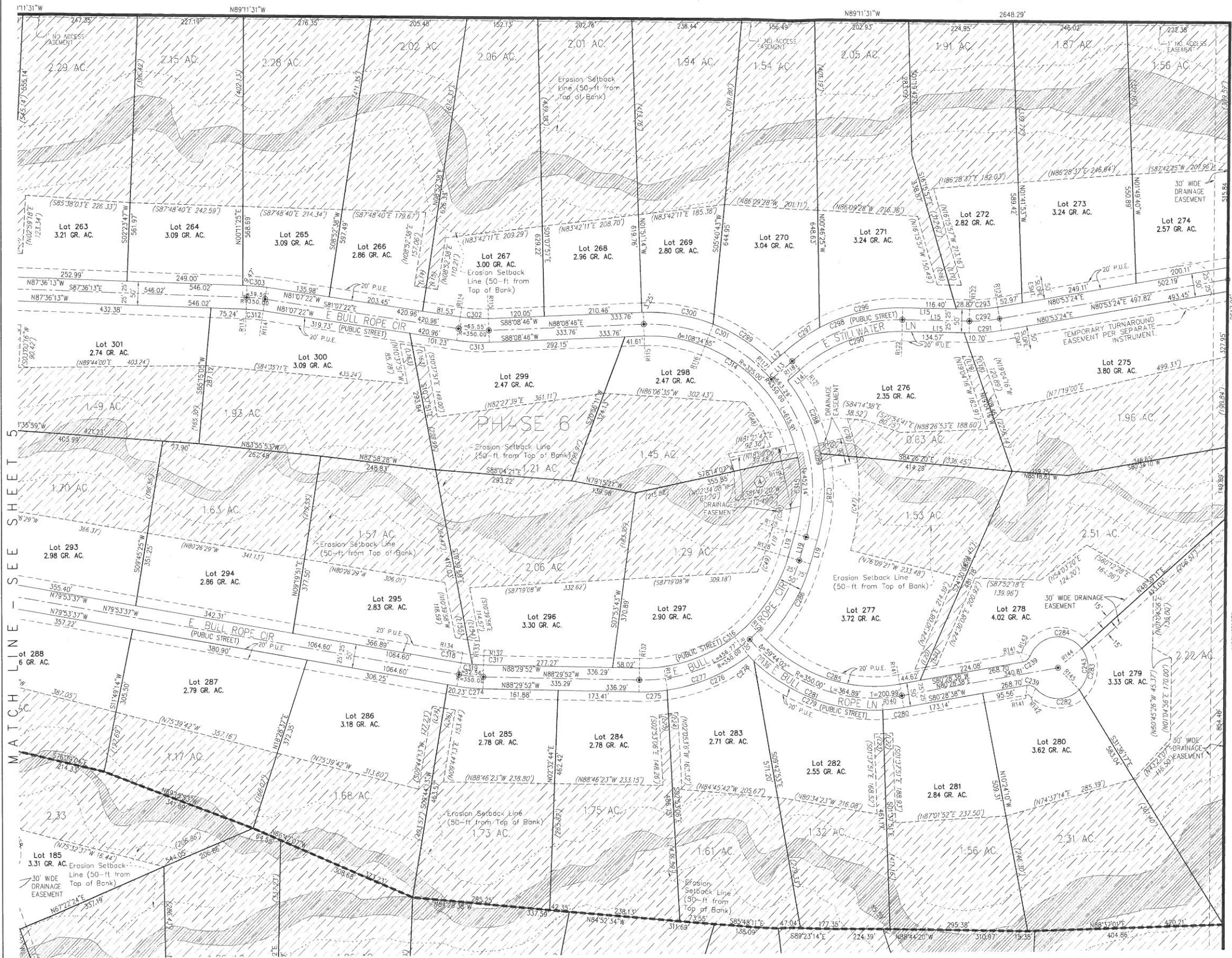
- EASEMENT LEGEND:**
- (A) = EASEMENT FOR DRAINAGE STRUCTURE PER THIS MAP.
 - (B) = WELL SITE BY SEPARATE INSTRUMENT.

GILBERT TECHNICAL SERVICES, INC.
1601 PASO SAN LUIS, SUITE 203
SAN ANTONIO, TEXAS 78205
PHONE: (210) 458-5700
FAX: (210) 458-5700
LAND SURVEYING • CONSTRUCTION LAYOUT

FINAL PLAT
KINGS RANCH AT CORONADO

SHEET 5
OF 12 SHEETS

DATE: 11/22/2011
DRAWN BY: AM
CHECKED BY:



- LEGEND**
- 172 26 GR. AC. LOT DATA
 - 172 KINGS RANCH ESTATES LOT NUMBER - LOT NOT A PART OF THIS PLAT.
 - 172* 26 GR. AC. LOT NOT A PART OF THIS PLAT
 - PROPERTY BOUNDARY
 - EASEMENT
 - 1' NO ACCESS EASEMENT
 - ROAD CENTERLINE
 - LOTLINE
 - PHASE LINE
 - SURVEY MONUMENT
 - N79°19'25"W LOT LINE DIRECTION
 - 173.01' LOT LINE LENGTH
 - (N79°19'25"W) EASEMENT LINE DIRECTION
 - (73.01') EASEMENT LINE LENGTH
 - SET 1/2" REBAR WITH A PLASTIC CAP AT ALL LOT CORNERS, EXCEPT AT BLOCK WALL LOCATIONS, WHERE A PENNY BRASS TAG WILL BE SET WITH A CONCRETE NAIL IN THE WALL ALONG THE PROLONGATION OF THE PROPERTY LINE.
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 - L23 LINE LABEL (SEE SHEET 12)
 - CONSERVATION EASEMENT - PRIVATE PROPERTY
 - CONSERVATION EASEMENT - COMMON AREA
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 - 100-YEAR FLOOD LIMITS
 - SLOPE EASEMENT LINE
 - EROSION SETBACK LINE
 - EASEMENT NOTE
 - AREA OF CONSERVATION EASEMENT

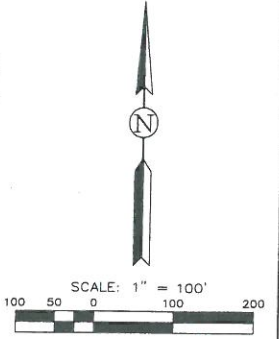
- EASEMENT LEGEND:**
- (A) = EASEMENT FOR DRAINAGE STRUCTURE PER THIS MAP.
 - (B) = WELL SITE BY SEPARATE INSTRUMENT.

GILBERT TECHNICAL SERVICES, INC.
1601 PASO SAN LUIS, SUITE 203
SANTA FE, NEW MEXICO 87505
TEL: (505) 425-5730
FAX: (505) 425-5730
LAND SURVEYING - CONSTRUCTION LAYOUT

DATE: 11/22/2011
DRAWN BY: AM
CHECKED BY: JTC

FINAL PLAT
KINGS RANCH AT CORONADO

SHEET 6 OF 12

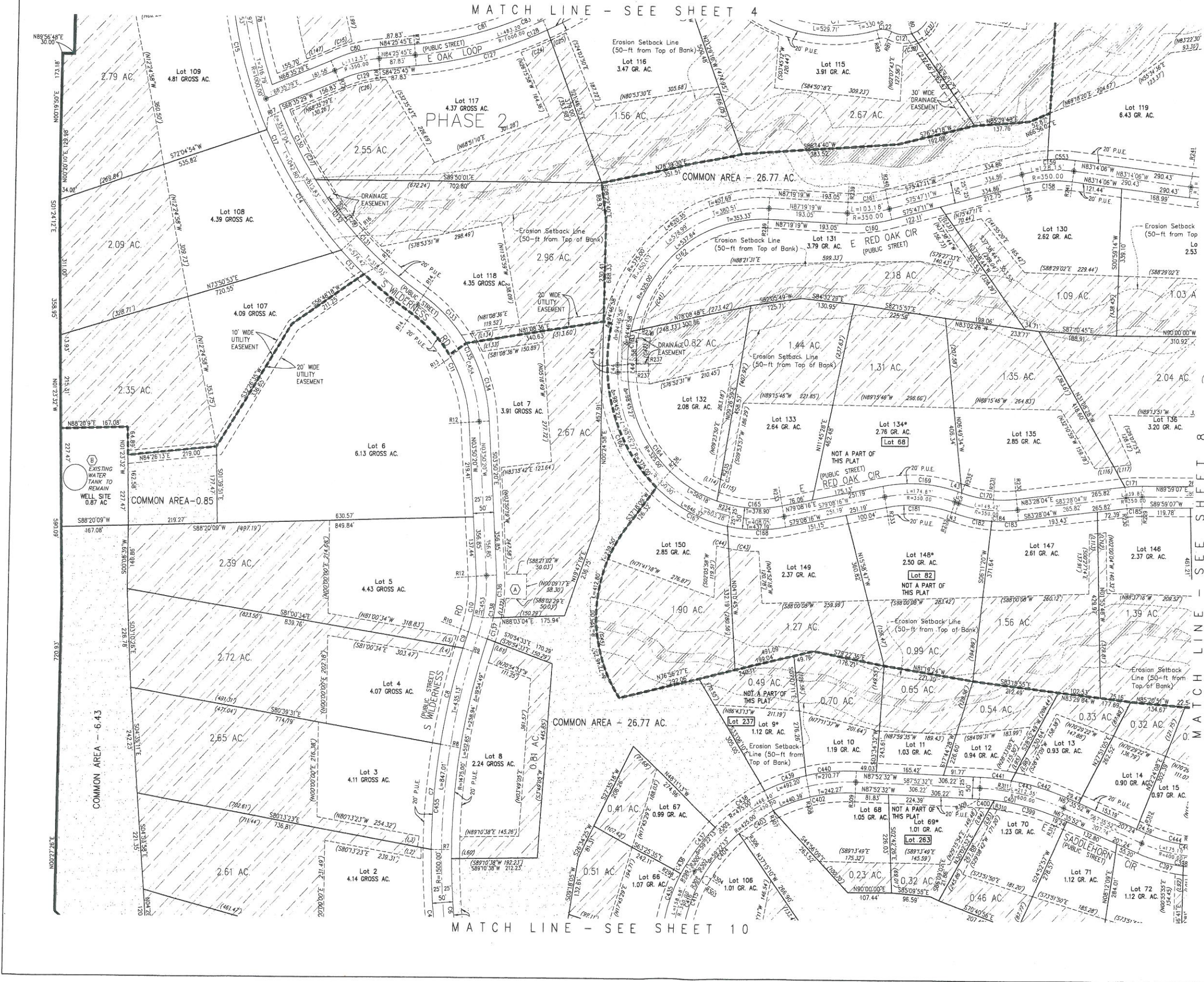


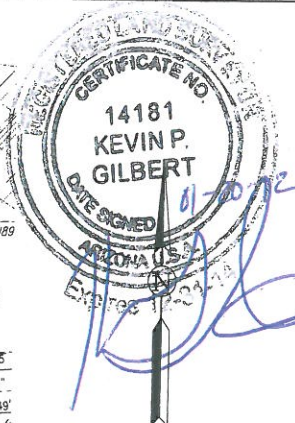
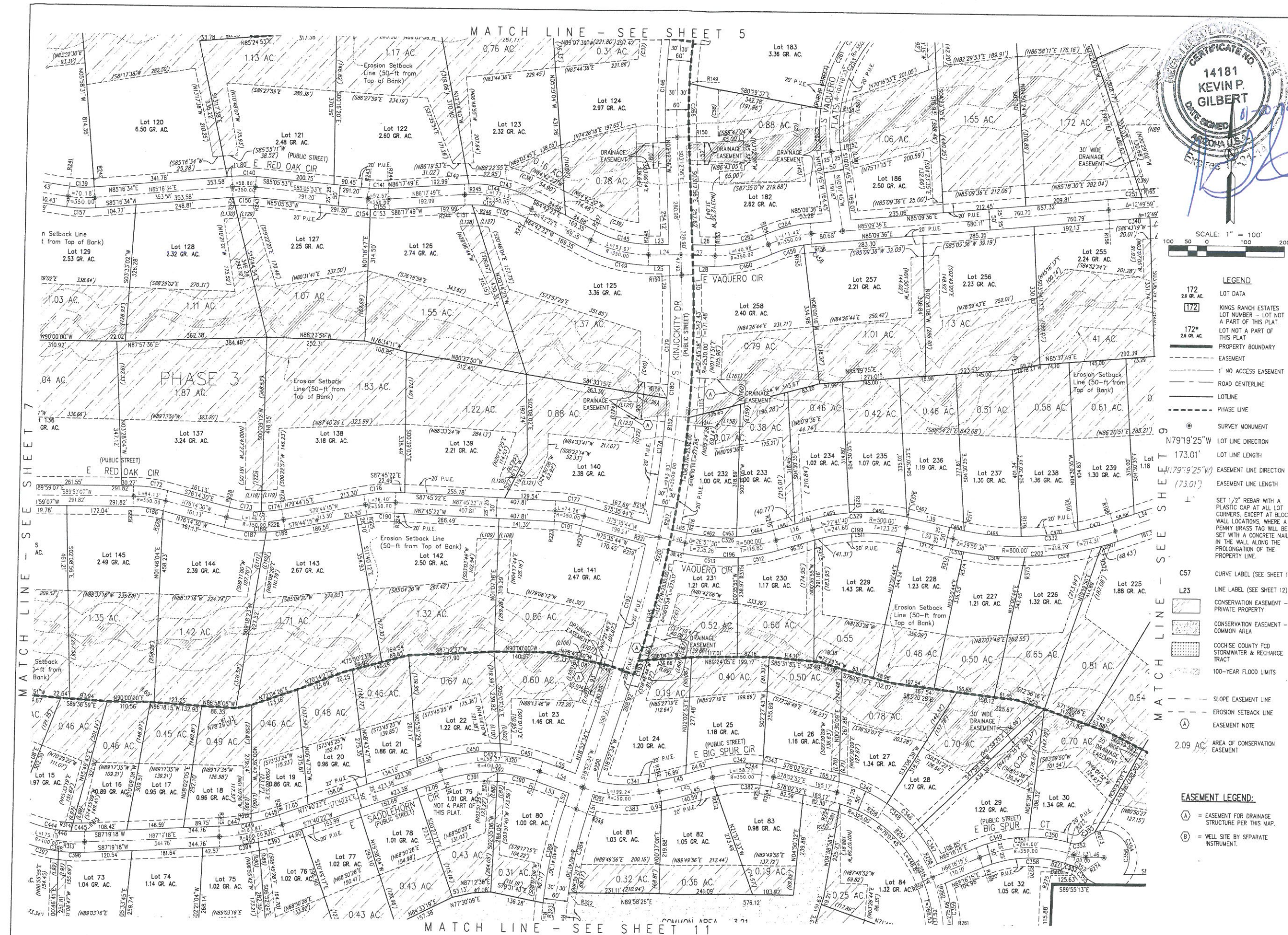
- LEGEND**
- 172 LOT DATA
 - 172 KINGS RANCH ESTATES LOT NUMBER - LOT NOT A PART OF THIS PLAT
 - 172* LOT DATA
 - 172* LOT NUMBER - LOT NOT A PART OF THIS PLAT
 - PROPERTY BOUNDARY
 - EASEMENT
 - 1' NO ACCESS EASEMENT
 - ROAD CENTERLINE
 - LOTLINE
 - PHASE LINE
 - SURVEY MONUMENT
 - N79°19'25"W LOT LINE DIRECTION
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 - EROSION SETBACK LINE
 - EASEMENT NOTE
 - AREA OF CONSERVATION EASEMENT

- EASEMENT LEGEND:**
- (A) = EASEMENT FOR DRAINAGE STRUCTURE PER THIS MAP.
 - (B) = WELL SITE BY SEPARATE INSTRUMENT.


CERTIFICATE NO. 14181
KEVIN P. GILBERT
DATE SIGNED 4/26/12
EXPIRES 12-31-12

REGISTERED LAND SURVEYOR
ARIZONA
14181
KEVIN P. GILBERT
DATE SIGNED 4/26/12
EXPIRES 12-31-12





SCALE: 1" = 100'

A horizontal graphic scale bar with alternating black and white segments. Above the bar, the numbers 100, 50, 0, 100, and 200 are printed, indicating distances in feet. The bar is divided into segments corresponding to these values: 100 feet (black), 50 feet (white), 0 feet (black), 100 feet (white), and 200 feet (black).

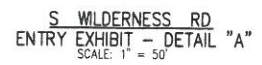
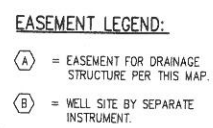
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EASEMENT LEGEND:

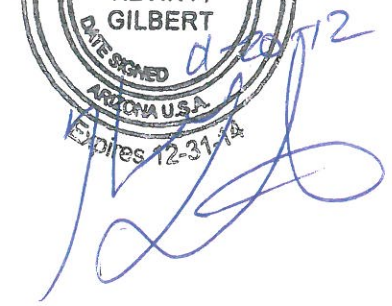
(A) = EASEMENT FOR DRAINAGE
STRUCTURE PER THIS MAP.

(B) = WELL SITE BY SEPARATE
INSTRUMENT.

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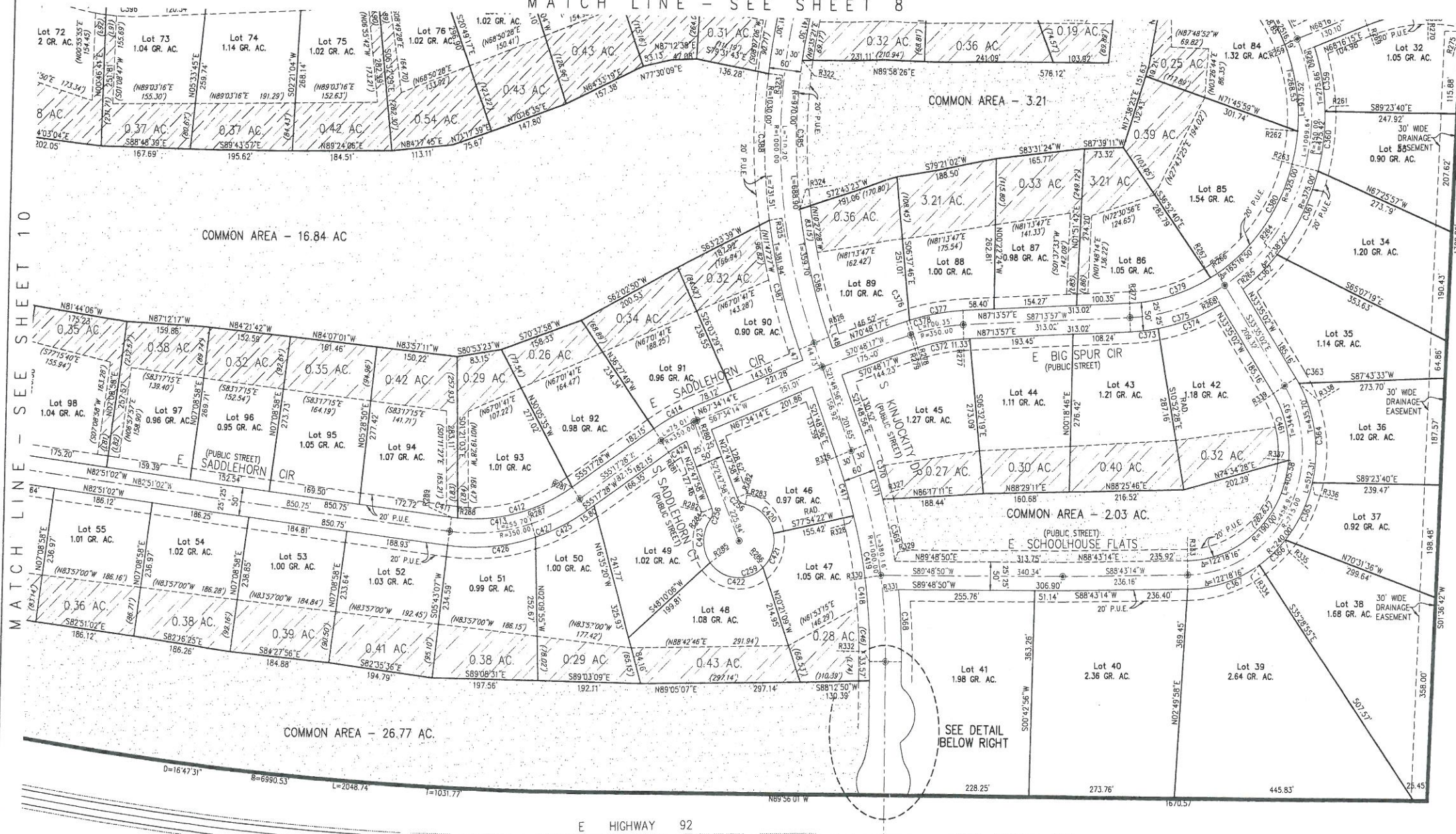


MATCH LINE - SEE SHEET 11



16

MATCH LINE - SEE SHEET 8

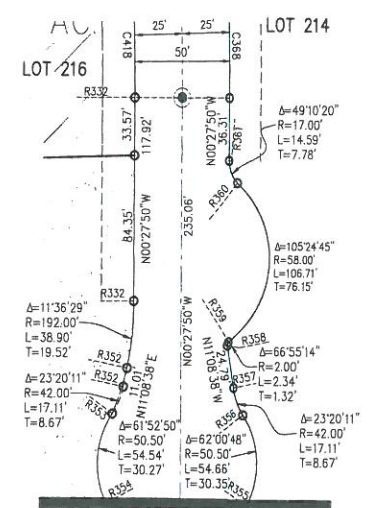


MATCH LINE - SEE SHEET 10

- LEGEND**
- 172 LOT DATA
 - 172 KINGS RANCH ESTATES LOT NUMBER - LOT NOT A PART OF THIS PLAT
 - 172* LOT NOT A PART OF THIS PLAT
 - PROPERTY BOUNDARY
 - EASEMENT
 - 1' NO ACCESS EASEMENT
 - ROAD CENTERLINE
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 - CONSERVATION EASEMENT - COMMON AREA
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 - 100-YEAR FLOOD LIMITS
 - SLOPE EASEMENT LINE
 - EROSION SETBACK LINE
 - EASEMENT NOTE
 - 2.09 AC AREA OF CONSERVATION EASEMENT

CERTIFICATE NO. 14181
KEVIN P. GILBERT
DATE SIGNED 01-20-12

- EASEMENT LEGEND:**
- (A) = EASEMENT FOR DRAINAGE STRUCTURE PER THIS MAP.
 - (B) = WELL SITE BY SEPARATE INSTRUMENT.



S. KINJOCKITY DR
(PRIVATE STREET)
ENTRY EXHIBIT
SCALE: 1" = 50'

GILBERT TECHNICAL SERVICES INC.
1000 PACIFIC AVENUE, SUITE 100
SIERRA VISTA, ARIZONA 85535
(520) 458-5730
FAX: (520) 458-5730
DATE: 11/21/2011
DRAWN BY: AGM
CHECKED BY: [Signature]
DATE: 11/21/2011

FINAL PLAT
KINGS RANCH AT CORONADO

SHEET 11 OF 12 SHEETS

17

CURVE TABLE					CURVE TABLE					CURVE TABLE					CURVE TABLE					CURVE TABLE				
CURVE	LENGTH	RADIUS	TANGENT	DELTA	CURVE	LENGTH	RADIUS	TANGENT	DELTA	CURVE	LENGTH	RADIUS	TANGENT	DELTA	CURVE	LENGTH	RADIUS	TANGENT	DELTA	CURVE	LENGTH	RADIUS	TANGENT	DELTA
C3	68.41	1525.00	31.71	02°22'58"	C138	150.07	375.00	76.05	22°55'47"	C275	61.11	375.00	30.62	09°20'11"	C412	226.18	325.00	117.89	32°52'32"	C459	303.52	325.00	163.84	53°30'30"
C4	288.84	1525.00	144.85	10°51'07"	C139	65.17	325.00	32.69	11°39'24"	C140	63.00	375.00	31.57	09°37'33"	C413	237.43	325.00	124.30	41°51'30"	C550	102.90	65.00	65.00	90°42'12"
C5	334.84	1525.00	169.87	12°34'43"	C141	63.00	375.00	31.57	09°37'33"	C142	63.00	375.00	31.57	09°37'33"	C414	80.37	375.00	40.34	12°16'46"	C551	88.90	65.00	65.00	90°42'12"
C6	832.89	1475.00	416.45	32°12'12"	C143	182.00	375.00	91.00	22°55'47"	C144	182.00	375.00	91.00	22°55'47"	C415	129.94	325.00	65.85	22°54'31"	C552	8.62	125.00	4.31	03°57'02"
C7	241.82	1525.00	121.16	09°05'07"	C145	118.00	375.00	59.00	22°55'47"	C146	118.00	375.00	59.00	22°55'47"	C416	147.47	375.00	73.74	22°55'47"	C553	6.70	375.00	3.35	10°20'40"
C8	227.29	1525.00	113.86	08°32'23"	C147	178.11	375.00	90.77	22°12'49"	C148	178.11	375.00	90.77	22°12'49"	C417	109.15	970.00	54.64	06°26'51"					
C9	39.80	1525.00	19.90	01°21'17"	C149	152.00	375.00	76.00	22°55'47"	C150	152.00	375.00	76.00	22°55'47"	C418	259.71	970.00	130.84	15°20'26"					
C10	130.06	325.00	65.03	22°53'47"	C151	142.14	325.00	72.22	22°53'47"	C152	142.14	325.00	72.22	22°53'47"	C419	368.87	970.00	186.69	21°47'17"					
C11	299.81	325.00	149.91	22°53'47"	C153	142.14	325.00	72.22	22°53'47"	C154	142.14	325.00	72.22	22°53'47"	C420	77.88	65.00	44.46	08°44'23"					
C12	148.57	1025.00	74.29	08°11'31"	C155	142.14	325.00	72.22	22°53'47"	C156	142.14	325.00	72.22	22°53'47"	C421	188.66	325.00	94.33	17°34'09"					
C13	79.88	1025.00	39.94	04°25'14"	C157	142.14	325.00	72.22	22°53'47"	C158	142.14	325.00	72.22	22°53'47"	C422	106.69	65.00	74.21	07°34'09"					
C14	334.85	1025.00	169.48	18°46'44"	C159	142.14	325.00	72.22	22°53'47"	C160	142.14	325.00	72.22	22°53'47"	C423	81.65	65.00	40.70	11°50'44"					
C15	422.89	1025.00	211.48	22°33'38"	C161	142.14	325.00	72.22	22°53'47"	C162	142.14	325.00	72.22	22°53'47"	C424	38.50	325.00	19.25	06°47'12"					
C16	83.85	1025.00	41.93	04°50'07"	C163	142.14	325.00	72.22	22°53'47"	C164	142.14	325.00	72.22	22°53'47"	C425	107.19	375.00	53.66	16°22'39"					
C17	1068.87	1025.00	534.44	22°33'38"	C165	142.14	325.00	72.22	22°53'47"	C166	142.14	325.00	72.22	22°53'47"	C426	178.77	375.00	89.39	17°34'09"					
C18	392.55	625.00	196.28	35°59'12"	C167	142.14	325.00	72.22	22°53'47"	C168	142.14	325.00	72.22	22°53'47"	C427	273.86	375.00	136.93	14°31'30"					
C19	210.50	625.00	105.25	19°17'51"	C169	142.14	325.00	72.22	22°53'47"	C170	142.14	325.00	72.22	22°53'47"	C428	57.72	375.00	28.82	08°49'07"					
C20	603.65	625.00	301.83	35°57'02"	C171	142.14	325.00	72.22	22°53'47"	C172	142.14	325.00	72.22	22°53'47"	C429	21.92	325.00	11.01	03°50'48"					
C21	109.83	325.00	54.92	19°21'44"	C173	142.14	325.00	72.22	22°53'47"	C174	142.14	325.00	72.22	22°53'47"	C430	108.64	375.00	54.30	17°09'27"					
C22	185.84	350.00	92.92	15°01'07"	C175	142.14	325.00	72.22	22°53'47"	C176	142.14	325.00	72.22	22°53'47"	C431	176.47	375.00	88.24	17°34'09"					
C23	296.43	350.00	148.22	48°31'32"	C177	142.14	325.00	72.22	22°53'47"	C178	142.14	325.00	72.22	22°53'47"	C432	41.46	375.00	20.73	06°20'05"					
C24	67.09	46.00	41.00	83°33'38"	C179	142.14	325.00	72.22	22°53'47"	C180	142.14	325.00	72.22	22°53'47"	C433	86.58	375.00	43.29	13°14'40"					
C25	121.57	65.00	60.80	10°29'38"	C181	142.14	325.00	72.22	22°53'47"	C182	142.14	325.00	72.22	22°53'47"	C434	137.65	375.00	69.61	21°01'53"					
C26	65.25	65.00	32.63	5°30'52"	C183	142.14	325.00	72.22	22°53'47"	C184	142.14	325.00	72.22	22°53'47"	C435	145.63	375.00	73.74	22°53'47"					
C27	14.26	325.00	7.13	02°22'58"	C185	142.14	325.00	72.22	22°53'47"	C186	142.14	325.00	72.22	22°53'47"	C436	24.48	375.00	12.24	03°42'26"					
C28	281.52	65.00	140.76	84°28'02"	C187	142.14	325.00	72.22	22°53'47"	C188	142.14	325.00	72.22	22°53'47"	C437	112.66	475.00	56.33	13°52'50"					
C29	31.80	400.00	15.90	04°50'07"	C189	142.14	325.00	72.22	22°53'47"	C190	142.14	325.00	72.22	22°53'47"	C438	157.05	375.00	78.53	17°34'09"					
C30	119.19	400.00	59.60	17°04'19"	C191	142.14	325.00	72.22	22°53'47"	C192	142.14	325.00	72.22	22°53'47"	C439	107.85	475.00	54.16	13°00'34"					
C31	315.67	400.00	157.84	45°12'38"	C193	142.14	325.00	72.22	22°53'47"	C194	142.14	325.00	72.22	22°53'47"	C440	124.14	475.00	62.07	14°58'24"					
C32	468.81	400.00	234.41	57°07'24"	C195	142.14	325.00	72.22	22°53'47"	C196	142.14	325.00	72.22	22°53'47"	C441	77.40	625.00	38.70	07°05'44"					
C33	17.40	300.00	8.70	01°20'11"	C197	142.14	325.00	72.22	22°53'47"	C198	142.14	325.00	72.22	22°53'47"	C442	143.80	625.00	72.22	13°01'56"					
C34	117.24	300.00	58.62	22°23'27"	C199	142.14	325.00	72.22	22°53'47"	C200	142.14	325.00	72.22	22°53'47"	C443	221.20	625.00	110.60	10°10'40"					
C35	134.72	300.00	67.36	25°43'47"	C201	142.14	325.00	72.22	22°53'47"	C202	142.14	325.00	72.22	22°53'47"	C444	148.88	625.00	74.44	13°58'37"					
C36	449.53	775.00	224.77	33°15'48"	C203	142.14	325.00	72.22	22°53'47"	C204	142.14	325.00	72.22	22°53'47"	C445	165.35	625.00	82.68	13°58'37"					
C37	33.41	775.00	16.71	02°28'12"	C205	142.14	325.00	72.22	22°53'47"	C206	142.14	325.00	72.22	22°53'47"	C446	164.15	375.00	82.08	13°58'37"					
C38	181.14	775.00	90.57	18°52'17"	C207	142.14	325.00	72.22	22°53'47"	C208	142.14	325.00	72.22	22°53'47"	C447	81.64	375.00	40.82	08°49'07"					
C39	65.91	550.00	32.96	08°51'36"	C209	142.14	325.00	72.22	22°53'47"	C210	142.14	325.00	72.22	22°53'47"	C448	75.31	375.00	37.65	07°30'15"					
C40	247.05	550.00	123.53	25°44'10"	C211	142.14	325.00	72.22	22°53'47"	C212	142.14	325.00	72.22	22°53'47"	C449	165.35	625.00	82.68	13°58'37"					
C41	308.65	250.00	154.33	70°47'01"	C213	142.14	325.00	72.22	22°53'47"	C214	142.14	325.00	72.22	22°53'47"	C450	111.15	425.00	55.58	14°59'03"					
C42	452.16	775.00	226.08	35°44'01"	C215	142.14	325.00	72.22	22°53'47"	C216	142.14	325.00	72.22	22°53'47"	C451	224.41	425.00	112.21	18°58'38"					
C43	289.51	400.00	144.76	25°44'10"	C217	142.14	325.00	72.22	22°53'47"	C218	142.14	325.00	72.22	22°53'47"	C452	107.40	350.00	53.70	22°53'47"					
C44	524.24	370.00	262.12	81°04'48"	C219	142.14	325.00	72.22	22°53'47"	C220	142.14	325.00	72.22	22°53'47"	C453	274.87	375.00	137.44	07°48'45"					
C45	51.45	320.00	25.73	01°40'49"	C221	142.14	325.00	72.22	22°53'47"	C222	142.14	325.00	72.22	22°53'47"	C454	69.77	45.00	44.09	88°49'50"					
C46	45.45	320.00	22.73	01°40'49"	C223	142.14	325.00	72.22	22°53'47"	C224	142.14	325.00	72.22	22°53'47"	C455	165.35	625.00	82.68	13°58'37"					
C47	52.18	350.00	26.10	08°32'33"	C225	142.14	325.00	72.22	22°53'47"	C226	142.14	325.00	72.22	22°53'47"	C456	148.88	625.00	74.44	13°58'37"					
C48	443.71	350.00	221.76	32°38'08"	C227	142.14	325.00	72.22	22°53'47"	C228	142.14	325.00	72.22	22°53'47"	C457	19.38	325.00	10.21	04°24'25"					
C49	499.89	350.00	249.95	32°38'08"	C229	142.14	325.00	72.22	22°53'47"	C230	142.14	325.00	72.22	22°53'47"	C458	19.38	325.00	10.21	04°24'25"					
C50	111.86	350.00	55.93	17°04'19"	C231	142.14	325.00	72.22	22°53'47"	C232	142.14	325.00	72.22	22°53'47"	C459	81.64	375.00	40.82	08°49'07"					
C51	290.57	375.00	145.29	44°26'56"	C233	142.14	325.00	72.22	22°53'47"	C234	142.14	325.00	72.22	22°53'47"	C460	24.48	375.00	12.24	03°42'26"					
C52	402.87	375.00	201.44	44°26'56"	C235	142.14	325.00	72.22	22°53'47"	C236	142.14	325.00	72.22	22°53'47"	C461	122.85	375.00	61.43	13°58'37"					
C53	42.30	50.00	25.																					



COMMUNITY DEVELOPMENT DEPARTMENT

Planning, Zoning and Building Safety

1415 Melody Lane, Bisbee, Arizona 85603

(520) 432-9240

Fax 432-9278

Carlos De La Torre, P.E., Director

MEMORANDUM

TO: Cochise County Planning and Zoning Commission
FROM: Beverly Wilson, Interim Planning Manager *BW*
For: Michael Turisk, Interim Planning Director *MT*
SUBJECT: Docket R-11-08 (Commission Review of By-Laws and Ordinance)
DATE: January 30, 2012 for the February 8, 2012 Meeting

I. NATURE OF REQUEST

Docket R-11-08 (Commission Review of By-Laws and Ordinance): The Planning and Zoning Commission has been reviewing and revising both the County Planning Commission Ordinance, dated November 20, 1969, and the Bylaws and Rules of Procedures for County Planning and Zoning Commission, Cochise County, Arizona. Chair Jim Lynch requested that both Staff and the Commissioners review a revised copy for final discussion of each document at the February 8, 2012 meeting. Deputy Civil County Attorney, Britt Hanson, has advised that from this discussion possible changes to these documents be proposed and that these proposed changes be legally advertised before any voting occurs. Chair Lynch has provided a summary of the changes for each document.

II. ORDINANCE

Attached please find a *Summary of Proposed Changes to the Ordinance*, authored by Chair Lynch. Following is a 'red-lined' version with proposed changes after Staff review. A 'clean' copy of the Ordinance then follows, incorporating all proposed changes. This will be the version published for a vote in March, unless there are further changes at this meeting.

If the Commission agrees to the changes in the Ordinance, those changes will be advertised for a final recommendation from the Commission at the March 14, 2012 Commission meeting. At that meeting, the Public will be invited to comment on any of the proposed changes prior to the Commission's vote. Each revised section will be voted on individually.

III. BY-LAWS AND RULES OF PROCEDURE

Following the above documents, please find a *Summary of Proposed Changes to By-Laws*, authored by Chair Lynch. A 'clean' copy of the By-Laws incorporating all suggested changes follows. Again, this will be the copy published for a vote after the Ordinance is approved by the Board of Supervisors, unless further edits are suggested.

IV: RECOMMENDATION

Staff recommends that the Commission review and discuss this latest draft of the County Planning Commission Ordinance, in preparation for a vote at the next monthly meeting. This vote will be to forward a recommendation for approval to the Board of Supervisors, and will be taken after legal publication and public comments are received.

If the Commission feels that the Summary of Proposed Changes to By-Laws is in final form, Staff will publish the legal notification for its' review and Commission vote for a time uncertain—after approval of the above *Ordinance* by the Board of Supervisors.

From Jim Lynch 1.17.2012

SUMMARY OF PROPOSED CHANGES TO ORDINANCE

Corrected miscellaneous spelling and grammar errors where found.

Section 2 MEMBERSHIP:

Clarified that the Chairman prepares statement of reasons for removal of a Commissioner

Removed the “absence for cause provision” to eliminate the need to adjudicate reasons for absence. An absence is an absence, for whatever reason.

Section 3 TERMS OF MEMBERS:

Removed staggered term provisions for the initial start-up of the Commission.

Section 4 OFFICERS:

Removed conditions for Secretary, as this is covered in the By-Laws.

Added Planning and Zoning Staff as advisory positions to Commission.

Section 6 ORGANIZATION AND RULES

Corrected time of election of Officers to first meeting of the calendar year.

Section 7 REPORTS:

Removed Annual Budget Report requirements as this is no longer a function of the Commission.

Added general provision to allow generation of reports as needed.

Section 8 POWERS AND DUTIES

This Section was completely rewritten to align the powers and duties with those currently practiced, removing those no longer in place.

Section 9 COCHISE COUNTY COMPREHENSIVE PLAN

This section was retitled and reworded to conform to the current plan title.

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COUNTY PLANNING AND ZONING COMMISSION ORDINANCE

AN ORDINANCE OF THE COUNTY OF COCHISE, ARIZONA, CREATING A PLANNING AND ZONING COMMISSION; DEFINING ITS POWERS AND DUTIES; PROVIDING FOR THE ORGANIZATION; AND REPEALING ALL ORDINANCES IN CONFLICT HERewith.

THE BOARD OF SUPERVISORS OF THE COUNTY OF COCHISE DOES ORDAIN:

Section 1. ESTABLISHMENT.

A County Planning and Zoning Commission (hereinafter referred to as the Commission) is hereby established to consult with and advise the Board of Supervisors (hereinafter referred to as the Board) on, matters of planning and zoning for the growth, development, improvement and beautification of the County.

Section 2. MEMBERSHIP.

The membership shall consist of nine members who shall be qualified electors, residents and real property owners appointed by the Board. Three members shall be appointed from each supervisorial district, and not more than one of the three shall be a resident of an incorporated municipality. Any member may be removed by the Board for neglect of duty, inefficiency, or misconduct in office, after a ten-day written notice and hearing thereon. A written statement of the reasons for removal shall be prepared by the Board and filed with the Clerk of the Board.

The Commission Chairman shall notify the Board whenever any member is absent from three consecutive regular meetings; this notification will include a listing of any mitigating circumstances and recommended action.

When a Commissioner moves from the district from which appointed, that office shall at once become vacant.

Section 3. TERMS OF MEMBERS.

The terms of the Commissioners shall be four years. Vacancies in any term shall be filled only for the unexpired portion of the term.

Section 4. OFFICERS.

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The Commission shall elect a Chairman and Vice-Chairman from among its own members, who shall serve for a term of one year. The County Assessor, County Engineer, the County Planning and Zoning Staff and County Attorney shall serve in an advisory capacity to the Commission.

Section 5. COMPENSATION.

Commission members shall serve as such without compensation, except that they may be reimbursed for actual expenses for travel incurred in connection with duties of their office upon authorization by the Commission and prior approval by the Board.

Section 6. ORGANIZATION AND RULES.

The Commission, at its first meeting of the calendar year, shall elect officers and fix the time and place of regular monthly meetings. A majority of five members of the Commission shall constitute a quorum for the transaction of any business or official action including, but not limited to adoption of policy, recommendations, reports or minutes. The Commission shall adopt rules and procedures for the transaction of business, subject to approval by the Board, and shall keep a record of its transactions, findings, recommendations and determinations. A copy of Commission records shall be kept in the Office of the Clerk of the Board, and such records shall be open to public inspection. No member shall act as an agent for or represent anyone on any matter coming before the Commission, Board, County Boards of Adjustment, or municipal bodies within the County pertaining to the use of land and buildings for any purpose, together with any incidental activities associated therewith or on other matters commonly known as "planning and zoning", and no member shall participate in the Commission's discussions, hearings or vote on any matter in which he has a financial or closely related personal interest, whether direct or indirect.

Section 7. REPORTS.

The commission shall submit to the Board such reports as may be requested by the Board.

Section 8. POWERS AND DUTIES.

The Commission is the body that hears and/or acts upon requests to change the use of property ~~allowed when required~~ by the Zoning Subdivision Regulations. The Commission ~~Commission's main function is to shall~~ make recommendations to the Board of Supervisors on rezoning and Comprehensive Plan amendments and ~~to make decisions~~act on special use permit applications. The Commissions powers and duties include:

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Review and Approval of Special Uses. Special Uses are activities which, because of their unique characteristics, could potentially ~~could~~ generate greater impacts than uses permitted by right in a zoning district. Due to these greater impacts, Special Uses are not granted as a matter of course but must be reviewed and approved by the Planning and Zoning Commission at a public hearing. If approved, the Special Use Permit allows only the specific use requested by the Applicant in addition to any other uses permitted by right. A Special Use is different than a rezoning. A rezoning is a legislative act that allows a whole range of uses permitted in the specific district. ~~Special Uses are most commonly used in rural areas. There are many special uses applicable to rural zoning districts. Each zoning district also allows a number of land use categories allowed by special use.~~ RV parks, golf courses, air strips and ~~firearm shooting~~ ranges are among the land uses that can be considered as Special Uses. Standards such as structure height, screening, paving and setbacks apply to Special Uses as they do to all permitted uses. As part of the Special Use process, ~~t~~The Commission is empowered to ~~can~~ modify or waive these standards or add standards as appropriate. Additional requirements related to public health, safety and welfare can be imposed by the Commission as conditions of the Special Use Permit.

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Review of Changes in Zoning. A change to in ~~at~~ the Cochise County Zoning ~~d~~District Boundaries is a legislative act which requires two ~~a~~ public hearings. The first of these is before the Planning and Zoning Commission which will then make recommendation to the Board of Supervisors. Final approval can then be made by the Board of Supervisors, following ~~another~~ the second public hearing. All rezoning requests are evaluated by the County based on how the newly proposed zoning district complies with certain criteria – such as the size of the parcel being able to comply with site development standards, adequate services and infrastructure, compatibility with existing development and public input. A list of the criteria is provided with each application. No rezoning proposal can be processed unless it is in conformance with the Comprehensive Plan Designation and Growth Area. If not, then it will be necessary to also request a change in the Comprehensive Plan

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Review of Changes to the Cochise County Comprehensive Plan. Comprehensive Plan policy amendments, changes to the growth category or plan-to-land-use map designations or Growth Category designations or Plan adoptions, amendments or extensions may be initiated ~~heard~~ by the Planning and Zoning Commission. This may result from either application by interested persons or upon its own ~~motion~~ initiative. ~~Amendments to countywide Plan policies may be initiated by the Commission.~~ The County Planning and Zoning Commission and the Board of Supervisors, by State Statute, will review the entire Plan every ten years, or more frequently as needed. If a private person or persons seeks to amend the Plan, they can submit the application to amend the Comprehensive Plan. Note that if the proposed amendment would result in an

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increase in the potential densities or intensities of uses for an area of two thousand (2,000) acres or more, the application can be accepted by the Planning and Zoning Department for consideration only from January 1 to the last business day in August of any year. All major amendments will be considered at a single public hearing by the Board of Supervisors in December.

Review of Proposed Subdivisions. The Planning Commission reviews and ~~approves~~ makes recommendations to the Board of Supervisors on proposed subdivision plats. Their task is to ensure that the plat conforms to the Subdivision Regulations, ~~and addresses public safety issues such as emergency vehicle access, safe roads and adequate water.~~ The Commissions makes recommendations for final approval on subdivision plats to the Board of Supervisors.

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Comment [b1]: The Subdivision Regulations cover all of these impacts.

Review of Proposed Changes to Zoning Regulations. The Commission works with the County Planning and Zoning Staff to review any proposed changes to the Zoning Regulations. Recommended changes are forwarded to the Board of Supervisors for approval.

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Conduct of Special Studies. The Commission may undertake and carry out comprehensive studies and surveys of physical, social and economic conditions of the County as may be necessary to continuously advise the Board on matters of planning and zoning for the growth, development, improvement and beautification of the County. It shall consider present conditions, problems and potential and desirable changes in the urban, suburban and rural areas of the County and recommend to the Board, programs, plans, standards, administrative procedures, and means of coordination with municipalities and other governmental agencies.

Section 9. COCHISE COUNTY COMPREHENSIVE PLAN.

The Comprehensive Plan shall contain a statement of goals and policies for growth, development, improvement and beautification of the unincorporated areas of the County; a statement of assumptions and projections of change which may occur during the next ten to twenty years; a plan for land use, highway and other transportation facilities, and for the location and extent of community facilities; and general recommendations for implementing the County Development Plan.

Section 10. SEVERABILITY.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Supervisors hereby declares that it would have adopted this Ordinance and each section, sub-

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section, sentence, clause, phrase or portion thereof, irrespective of the fact that anyone or more sections, subsections, clauses, phrases or portions be declared invalid or unconstitutional.

Section 11. REPEAL.

All Ordinances or parts of Ordinances in conflict or inconsistent with the provisions of this Ordinance are hereby repealed.

PASSED AND ADOPTED this [day] of [month], 2012 of by the Board of Supervisors of the County of Cochise, Arizona.

COCHISE COUNTY BOARD OF SUPERVISORS

Richard Searle, Chairman

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COUNTY PLANNING AND ZONING COMMISSION ORDINANCE

AN ORDINANCE OF THE COUNTY OF COCHISE, ARIZONA, CREATING A PLANNING AND ZONING COMMISSION: DEFINING ITS POWERS AND DUTIES: PROVIDING FOR THE ORGANIZATION: AND REPEALING ALL ORDINANCES IN CONFLICT HERewith.

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Section 10. SEVERABILITY.

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Section 11. REPEAL.

All Ordinances or parts of Ordinances in conflict or inconsistent with the provisions of this Ordinance are hereby repealed.

PASSED AND ADOPTED this [day] of [month], 2012 of by the Board of Supervisors of the County of Cochise, Arizona.

COCHISE COUNTY BOARD OF SUPERVISORS

Richard Searle, Chairman

From Jim Lynch 1.17.2012

SUMMARY OF PROPOSED CHANGES TO BY-LAWS

Corrected miscellaneous spelling and grammar errors where found.

ARTICLE 1 – PREAMBLE:

Removed duties and responsibilities as these are specified in the Commission Ordinance

ARTICLE 2 – OFFICERS, Paragraph 4 Number of Commissioners

Revised absence reporting to conform to updated Ordinance requirements

ARTICLE 3 - MEETINGS

1. Annual Meeting: Revised to indicate this would be the first meeting of a calendar year.
2. Regular Meeting: Revised to read “normally held monthly” to allow a no meeting month if no dockets have been presented. Also provided for additional meeting so long as the volume of business so dictates.
8. Reports: Retitled and revised to conform to current practices.
14. Quorum Call and Absence Reporting Process: Added this section to formalize this procedure as currently practiced.

ARTICLE 4 – ORDER OF BUSINESS

Deleted “Action Items” as it is redundant with “Old Business” and “New Business”

ARTICLE 5 – PRESENTATION OF MATTERS BEFORE THE COMMISSION

3. Order of Proceedings: Added subparagraphs k. and l. to describe motions, voting and discussion of the appeal process.

**BYLAWS AND RULES OF PROCEDURE
FOR COUNTY PLANNING AND ZONING COMMISSION,
COCHISE COUNTY, ARIZONA**

ARTICLE 1-PREAMBLE

The County Planning and Zoning Commission ("Commission") was created by the Board of Supervisors of Cochise County, Arizona by authority of "County Planning Commission Ordinance," first passed and adopted November 20, 1969, to direct the growth and physical development of the County of Cochise and environs in sound and orderly fashion for the prosperity, health, safety, convenience, and general welfare of the citizens of Cochise County.

The purpose of these Rules of Procedure shall be to implement this Ordinance, and its subsequent changes and revisions, and shall at all times be interpreted as carrying out the directives set forth in said Ordinance.

The functions, duties and responsibilities of the Commission are defined in the Commission Ordinance.

In order that the functions, duties, responsibilities of the Commission may be carried out in an orderly and consistent fashion with full public knowledge of the procedures involved, the following bylaws and rules of procedures are adopted.

ARTICLE 2 – OFFICERS

1. The officers of the County Planning and Zoning Commission shall be:

- A. Chair: The Chair shall preside at all meetings and public hearings of the Commission, adopt all committees, have general supervision of the conduct of the affairs of the Commission, and perform such other duties as are usually exercised by the Chair of a Commission.
- B. Vice-Chair: The Vice-Chair shall perform the duties of the Chair in the Chair's absence. In the event that both the Chair and Vice-Chair shall be absent, then the members present shall choose one from among their number to be Chair pro-tem for that meeting.
- C. Secretary: The Secretary who shall be the secretary to the Planning Director, or a County employee designated by the Board of Supervisors, shall keep a written record of all business transacted by the Commission, notify members of all meetings, keep on file all official records of the Commission and be responsible for serving legal notice of all public hearings. This person shall be responsible to the Planning Commission when appointed. Any compensation for extra hours, if any, shall be fixed by the Board of Supervisors.

2. Officers: The officers of the County Planning and Zoning Commission shall be elected each year from among the members of the Commission for a one-year term at the Annual Meeting, with the exception of the Secretary who shall be appointed.

3. Legal Counsel: The Office of the County Attorney shall render all legal counsel, and shall defend the Commission and the Board in all legal actions, unless the Board of Supervisors shall deem it wise to retain other or additional legal counsel. Advice of legal counsel shall be received and entered in the minutes before

disposition of any question of law, or matter requiring legal interpretation or advice unless the Commission has obtained the advice of legal counsel in Executive Session pursuant to Article 3, Section 4, of these Bylaws.

4. Number of Commissioners: The Commission shall be composed of nine (9) members. The members shall be qualified electors, residents and real property owners appointed by the Board. Three members shall be appointed from each supervisorial district; not more than one of these three shall be a resident of an incorporated municipality. Any member may be removed by the Board for neglect of duty, inefficiency, or misconduct in office, after ten days written notice and hearing thereon. A written statement of the reasons for removal shall be filed with the clerk of the Board.

The Commission Chairman shall notify the Board whenever any member is absent from three consecutive regular meetings; this notification will include a listing of any mitigating circumstances and recommended action. When a commission member moves from the district from which appointed, that office shall at once become vacant.

5. Vacancy: Vacancies created by any cause shall be filled for the unexpired term in the case of a Commissioner by appointment of the Board of Supervisors, and in the case of Officers by election by the Commission from their membership.

6. Conflict of Interest Policy: All Members and Officers shall be governed by the Conflict of Interest Policy set forth in Title 38, Chapter 3, Article 8 of the Arizona Revised Statutes.

ARTICLE 3 – MEETINGS

1. Annual Meetings: The Annual Meeting for the installation of new members and election of officers shall be the first regular meeting of a calendar year.

2. Regular Meetings: Regular meetings of the Commission shall be normally held at least once per month at the time and place as set forth in the notice of meeting. Additional meetings may be scheduled when the volume of business dictates they are required. In the event of a regular meeting date falling upon a legal holiday as prescribed by the State Government, said meeting shall be held on the following Wednesday at the regular time and place.

3. Special Meetings: Special meetings of the Commission may be held at the call of the Chair, or at the request in writing of any five (5) or more members, who shall all sign the notice, which shall then be considered a legal notice of said meeting. All members shall be notified at least 48 hours in advance of the time set for a special meeting.

4. Meetings open to the Public: All meetings and hearings of the Commission shall be open public meetings pursuant to the requirements and procedures of the Arizona Revised Statutes; and all official votes or actions must be in session open to the public. Executive sessions may be convened by the Commission by affirmative vote of the majority of the members present only pursuant to the requirements and procedures of the Arizona Revised Statutes.

5. Notifications: Notice of all meetings shall be furnished to each member at the time that the required public notification is sent to the news media for publication. Any member may waive notice of any meeting. The attendance of a member at a meeting shall constitute a waiver of notice of such meeting, except where a member attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Docket packets shall be furnished to each member at least 48 hours in advance of any meeting.

6. A Quorum: A majority of five (5) members of the Commission shall constitute a quorum.

7. Minutes & Records: The Commission shall keep minutes and records of all its resolutions, transactions, findings, and determinations and, if the vote is not unanimous, the vote of each member present shall be recorded with each order or resolution. Votes taken by the Commission may be by roll call at the discretion of the Chair and the Chair shall be the last to vote. The minutes, records, resolutions, transactions, findings and determination shall be of public record.

8. Reports: The Commission, through the Staff, may submit to the Board special reports as may be needed.

9. Decisions of Commission:

- A. Initial motions shall be made in the affirmative form in order to open the discussion of a docket.
- B. Majority votes on Special Use dockets shall be the final decision of the Commission unless appealed to the Board of Supervisors. Tie votes on Special Use dockets will result in the failure of the motion, not the docket, and will automatically be moved to the next regularly scheduled Commission meeting. A tie vote at the subsequent Commission meeting will result in failure of the docket.

10. Recommendation to Board of Supervisors: The Commission is an advisory body to the Board of Supervisors. All results of votes of the Commission, except for votes on Special Use dockets, shall be forwarded as a recommendation to the Board of Supervisors.

11. Rules of Order: Parliamentary Procedure at a Glance by O. Garfield Jones shall be considered as guidelines at the discretion of the Chair. These *Bylaws and Rules and Procedure* shall govern the proceedings of all Commission meetings, subject to interpretation by the Chair.

12. Adjournment: A motion to adjourn shall always be in order, and shall be carried by a majority vote of members present.

13. Lack of Quorum: In the event that a meeting is not held due to lack of a quorum, all matters scheduled for public hearing and/or action shall be automatically continued to the next regularly scheduled meeting, unless a special meeting date is arranged. Notice of such cancellation and continuation will be provided by staff or any Commission member at the meeting place, identifying the time and place for the re-scheduled public hearing. In such instances, the matter shall not be required to be re-published, nor shall additional notification be required to be mailed to the neighboring property owners.

14. Quorum Call and Absence Reporting Process:

- A. In the week prior to a meeting, the Commission Secretary issues a quorum call by email. Commissioners respond to Secretary by email or phone.
- B. Two days prior to meeting, the Secretary advises the Chairman of projected absentees and reasons for absence, if known. The Chairman may contact Commissioners planning to be absent to encourage attendance.
- C. The Secretary will maintain a spreadsheet detailing attendance records. A copy of the updated spreadsheet is to be provided to the Chairman at each meeting.

ARTICLE 4 – ORDER OF BUSINESS

1. Call to Order by Chair or Vice-Chair
2. Roll Call
3. Determination of a Quorum
4. Approval of Minutes of last preceding meeting
5. Call to Public
6. Old Business
7. New Business
8. Planning Director's Report
9. Request for Special Meeting
10. Call to Commissioners
11. Adjournment

The above order of presenting new business may be changed to accommodate persons to be heard on matters for consideration before the Commission by majority consent of the Commissioners present.

ARTICLE 5 – PRESENTATION OF MATTERS BEFORE THE COMMISSION

1. Writings Required: Every matter on which the Commission is authorized or required to act, brought before the Commission by any person, official, organization or agency, shall be presented in writing or on forms provided for the purpose, and shall include all information necessary for a clear understanding and intelligent action by the Commission. Such information may include maps, surveys, drawings, plans, charts, applicant's citizen input report, and other descriptive data.

2. Posting of Agenda: The agenda of cases to be heard shall be posted in the physical location required for posting other legal notices for the Board of Supervisors not less than 24 hours before each regular or special meeting.

3. Order of Proceedings: Each matter shall be heard in the following order subject to the discretion of the Chair:

- A. The Chair shall call the docket number and describe the docket.
- B. The Planning Director or the Director's designee will summarize relevant correspondence and explain maps and other pertinent information.
- C. The applicant or applicant's representative may make a statement in support of the application.
- D. Open public discussion.
- E. Other persons in favor of the application may be heard.
- F. Those opposed to the application may be heard.
- G. The applicant may be heard in rebuttal.
- H. Close public discussion.
- I. Questions and discussion from Commission members.
- J. The Planning Director or the Director's designee will provide the Commission with written and verbal recommendations.
- K. A Motion will be made regarding approval of the docket, and a vote taken following deliberations.
- L. The Chair will summarize the Commissions finding, and advise of next steps and appeal process, if appropriate.

4. Withdrawal of Application: The applicant may withdraw any matter brought before the Commission at any time before the Commission has rendered a decision.

ARTICLE 6 – AMENDMENTS OF BYLAWS & RULES OF PROCEDURE

The foregoing *Bylaws and Rules of Procedure*, or any part thereof, may be amended at any meeting of the Commission after not less than three (3) days' notice have been given to all members of the Commission and a copy of the proposed amendment sent with the notice. It shall require the affirmative of not less than six (6) members to make any amendment or change to these *Bylaws and Rules of Procedure*.

ARTICLE 7 – RECORDATION OF RULES AND AMENDMENTS

A certified copy of these Rules and amendments thereto shall be placed on record in the office of the Clerk of the Board of Supervisors within five (5) days following the date of adoption.

REVISED ON [day] of [month], 2012

Chair

Vice – Chair